

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

MARTIN J. WALSH, SECRETARY OF
LABOR, UNITED STATES
DEPARTMENT OF LABOR,

Plaintiff,

v.

MEDICAL STAFFING OF AMERICA,
LLC, etc., et al.,

Defendants.

CIVIL ACTION NO.
2:18cv226

TRANSCRIPT OF PROCEEDINGS

**** Bench Trial - Day 2 ****

Norfolk, Virginia

September 1, 2021

BEFORE: THE HONORABLE RAYMOND A. JACKSON
United States District Judge

APPEARANCES:

UNITED STATES DEPARTMENT OF LABOR
By: Ryma N. Lewis
Chervonti Jones
Mohamed E. Seifeldein
Counsel for the Plaintiff

PIERCE McCOY, PLLC
By: Joshua L. Jewett
Julia A. Rust
Counsel for the Defendants

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—J. Jones - Direct—

1 (Proceedings resumed at 1:00 p.m.)

2 THE COURT: Good afternoon, counsel.

3 MR. SEIFELDEIN: Good afternoon.

4 MS. RUST: Good afternoon.

5 THE COURT: We are ready to begin again. Next
6 witness.

7 MS. LEWIS: Your Honor, we'll be calling Ms. Johnese
8 Jones.

9 (Witness sworn.)

10 JOHNESE JONES, called by the Plaintiff, having been
11 first duly sworn, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MS. LEWIS:

14 Q. Good afternoon, Ms. Jones.

15 A. Good afternoon.

16 Q. Would you please state your name for the record and spell
17 your last name.

18 A. Johnese Jones, J-o-n-e-s.

19 Q. Are you familiar with Steadfast Medical?

20 A. Yes.

21 Q. How are you familiar with that company?

22 A. I work for that company.

23 Q. Okay. When were you employed there?

24 A. August '18 through December of 2019, if I'm not mistaken.

25 Q. What type of services does Steadfast provide?

—J. Jones - Direct—

1 A. It's a staffing agency for nurses and CNAs to facilities.

2 Q. When you first started at Steadfast, what was your job
3 title?

4 A. A CNA.

5 Q. And did there come a time that your position changed?

6 A. Yes.

7 Q. And when was that?

8 A. Was it in -- I think it was in July 2019 when I became a
9 staffing coordinator. I had broke my foot.

10 Q. So you were, both, out in the field at one point and then
11 in the office?

12 A. Yes, ma'am, correct.

13 Q. When you switched to working in the office, did you need
14 to reapply for that position?

15 A. No, ma'am.

16 Q. Okay. Did you work for any other agencies?

17 A. Yes, ma'am.

18 Q. During that time?

19 A. Yes, ma'am.

20 Q. What other agency did you work for?

21 A. First Choice Nurses.

22 Q. Did you ever work over 40 hours there?

23 A. No, ma'am.

24 Q. Okay. And why not?

25 A. They didn't offer overtime. They gave you a cap at 40

—J. Jones - Direct—

1 hours.

2 Q. When you first started working for Steadfast as a CNA,
3 how did you apply?

4 A. I went into the office and applied in person.

5 Q. Did you have to submit any paperwork when you applied?

6 A. Yes, ma'am, I did.

7 Q. What did you have to complete?

8 A. Of course a paper application and I had to bring my
9 certifications in, copies of my PPD, CNA license, CPR
10 certification.

11 Q. I want to direct your attention to an exhibit that's been
12 marked as Plaintiff's 26.11 through 14. If you could just
13 take a minute to review this document.

14 MS. LEWIS: If you could scroll to the next page,
15 please. If you could go back up to the top when you are done
16 scrolling, please. It starts on Page 11, Ms. Jones.

17 BY MS. LEWIS:

18 Q. And that's the date that you had submitted the
19 application, and that's August 2018; is that right?

20 A. Yes, ma'am, that's correct.

21 Q. And this information asked for your availability, as you
22 indicated?

23 A. Yes, ma'am.

24 Q. And so is this a true and accurate representation of the
25 employment application that you submitted?

—J. Jones - Direct—

1 A. Yes, ma'am.

2 MS. LEWIS: Your Honor, I move to admit PX-26. I
3 can't recall if we admitted that.

4 THE COURT: What we did was --

5 MS. LEWIS: We did the whole entire exhibit.

6 THE COURT: -- the entire exhibit.

7 MS. LEWIS: Okay.

8 BY MS. LEWIS:

9 Q. How much were you paid per hour when you worked as a CNA?

10 A. 15.

11 Q. Who set and established those rates of pay?

12 A. To my understanding, Ms. Pitts.

13 Q. Was the rate specified, or did it vary based upon your
14 personal experience or skills?

15 A. No, ma'am.

16 Q. Were taxes withheld from your paycheck?

17 A. No, ma'am.

18 Q. Did you communicate with the facilities you worked at to
19 negotiate your hourly rate?

20 A. No, ma'am.

21 Q. Why not?

22 A. Their hourly rate was set for each building that you
23 worked at. Each building had a different rate of pay.

24 Q. So other than your hourly pay rate, did you receive any
25 profits besides the hourly rate that was predetermined by

—J. Jones - Direct—

1 Steadfast?

2 A. No, ma'am.

3 Q. Did you ever make any more than the rate you received
4 from Steadfast?

5 A. No, ma'am.

6 Q. And who paid you for the care that you provided to the
7 residents at the facilities?

8 A. Steadfast.

9 Q. So you indicated that at a certain point you became a
10 scheduler. Can you tell me how that came about.

11 A. I had broke my foot outside of work, and I needed to have
12 some income coming in, so I called Ms. Pitts personally and
13 asked her was there anything that I could do to still make
14 income, and she allowed me to come into the office and staff
15 CNAs out to facilities.

16 Q. And how much were you paid when you worked as a
17 scheduler?

18 A. I think it was 10.50 or 10.25.

19 Q. And who set and established that rate of pay?

20 A. Ms. Pitts.

21 Q. Coming back to when you -- we'll separate them.

22 When you worked as a CNA, did you ever work more
23 than 40 hours in a workweek?

24 A. Yes, ma'am.

25 Q. What about when you worked as a scheduler? Did you ever

—J. Jones - Direct—

1 work more than 40 hours?

2 A. Only if I was on call for the weekend, it may have ran
3 into overtime for that week.

4 Q. So on average, when working as a CNA, approximately how
5 many hours did you work each day?

6 A. Eight, but sometimes I worked eight, and sometimes I
7 worked 16, depending if I did a single or a double shift. It
8 varied.

9 Q. I'm sorry. I didn't mean to interrupt you.

10 A. It varied.

11 Q. Okay. So when you said eight or 16, you are referring to
12 hours?

13 A. Yes, ma'am.

14 Q. And what about when you were in the office?
15 Approximately how many hours did you work each day?

16 A. Approximately eight.

17 Q. You indicated that -- if you had weekend or were on call,
18 how many additional hours did you work on those occasions?

19 A. It would be an eight-hour shift on a Saturday and -- did
20 I come in on Sunday? I don't think I came in on Sunday, just
21 on Saturday.

22 Q. Okay. So when you worked as a CNA and you worked over 40
23 hours, what rate were you paid when you worked over 40?

24 A. Still the 15.

25 Q. And when you worked as a scheduler in the office and you

—J. Jones - Direct—

1 worked over 40, what rate were you paid?

2 A. It was time and a half.

3 Q. When you were hired, were you required to complete any
4 assessments?

5 A. Yes, ma'am.

6 Q. What kind of assessments?

7 A. If I'm not mistaken, I think it was, like, a test that
8 they ask you about CNA skills, like a skill assessment test.

9 Q. When you were hired, were you required to complete any
10 refreshers or trainings?

11 A. Not to my knowledge.

12 Q. I'd like to direct your attention -- if you could take a
13 look at PX-32.

14 MS. LEWIS: If you could just scroll through that so
15 she can review it.

16 BY MS. LEWIS:

17 Q. When you're done reviewing and she's done scrolling, if
18 you could look up at me.

19 A. (Witness reviewing.)

20 Q. Do you recognize these documents?

21 A. Yes, ma'am. That was in the application packet.

22 Q. It was part of the application?

23 A. Yes, ma'am.

24 Q. So these are refreshers or trainings on HIPAA. Do you
25 recognize that one?

—J. Jones - Direct—

1 A. Yes, ma'am, I do.

2 Q. What about substance abuse?

3 A. Yes, ma'am.

4 Q. Abuse and neglect?

5 A. Yes, ma'am.

6 Q. And then the assessment skills test you referred to with
7 respect to care that CNAs provide?

8 A. Yes, ma'am, that's correct.

9 Q. When you were working as a CNA, were you given the option
10 to be classified as an independent contractor or an employee?

11 A. To my understanding, we were independent contractors.

12 Q. I'm sorry?

13 A. To my understanding, that's what we were classified as,
14 independent contractors.

15 Q. With the new hire paperwork, the employment application,
16 did you sign an employment agreement with Steadfast?

17 A. I don't remember.

18 Q. Okay. I want to direct your attention to PX-25.

19 MS. LEWIS: Starting on Page 13, Ms. Jones.

20 BY MS. LEWIS:

21 Q. Take a moment to review that as she scrolls.

22 Is that your signature there?

23 A. Yes, ma'am.

24 Q. Okay. So do you recognize this document?

25 A. No.

—J. Jones - Direct—

1 Q. I'm sorry?

2 A. Actually, no.

3 Q. But you recognize your signature?

4 A. It's my signature. Yes, ma'am, it is.

5 Q. And going to the top, is that your handwriting?

6 A. Not my name, it is not.

7 Q. Okay. So that's not --

8 A. No, ma'am.

9 Q. What is wrong with your name? Is it spelled incorrectly?

10 A. No, it's spelled correctly. That's just not how I write.

11 Q. Okay. Thank you.

12 Were you able to structure the terms of your working
13 relationship with the facilities you were placed at?

14 A. Meaning?

15 Q. Meaning were you able to initially set your schedule,
16 establish the rate of pay that you were going to be paid?

17 A. It was set in the schedule. You were not supposed to,
18 but once you went to a facility, you pretty much did if you
19 had a good rapport with the scheduler for that facility.

20 Now, as far as the rate of pay, no, you couldn't negotiate
21 the rate of pay.

22 Q. Okay. So when you say you're not supposed to, what do
23 you mean by that?

24 A. Because from us working for Steadfast, Steadfast had to
25 schedule us to make sure that, I guess, the time sheets and

—J. Jones - Direct—

1 stuff came back so they could make sure they're getting paid
2 the correct amount.

3 Q. Okay.

4 A. So we couldn't book ourselves without the company being
5 aware.

6 Q. So you mentioned time sheets, but were you required to
7 complete time sheets as a CNA?

8 A. Yes, ma'am.

9 Q. How often were you required to submit the time sheets
10 when you worked?

11 A. They wanted you to submit a time sheet after each shift.

12 Q. Who told you when you were required to submit time sheets
13 when you worked as a CNA?

14 A. I can't remember who told us. I just know that that's
15 what you were supposed to do.

16 Q. Was it the facility or Steadfast?

17 A. No, it was Steadfast.

18 Q. Okay. Someone at Steadfast.

19 Were you required to provide notice to Steadfast if
20 you were unavailable to work?

21 A. Yes.

22 Q. And who would you call?

23 A. You'd have to call the on-call scheduler at Steadfast.

24 Q. What if it was after hours?

25 A. There was always someone on call for them.

—J. Jones - Direct—

1 Q. So a scheduler, whomever was on call?

2 A. Yes, ma'am.

3 Q. And how much notice were you required to provide if you
4 were unavailable?

5 A. You're supposed to give a two-hour advanced notice.

6 Q. If you were running late for a shift or have to cancel a
7 shift, did you have to notify Steadfast?

8 A. Yes, we did.

9 Q. Who would you call?

10 A. You would call the scheduler, whoever is on call for that
11 day.

12 Q. If you had a scheduling conflict, did Steadfast allow you
13 to send another CNA in your place?

14 A. No, ma'am.

15 Q. Who would send someone?

16 A. Steadfast would have to find a replacement for you.

17 Q. Were you allowed to employ another CNA to complete a
18 shift that Steadfast paid you for?

19 A. No, ma'am.

20 Q. Did you have a supervisor when you worked at Steadfast?

21 A. Yes, ma'am.

22 Q. Who was your supervisor?

23 A. Lisa Pitts.

24 Q. What was Lisa's involvement in the supervision of nurses
25 at the facilities?

—J. Jones - Direct—

1 A. She would make sure we, you know, knew the code of
2 conduct, make sure we went to work on time and completed our
3 shifts.

4 Q. Are you aware of Lisa ever disciplining or counseling
5 employees?

6 A. Yes, ma'am.

7 Q. What do you know about that?

8 A. Well, when I worked in the office as a scheduler, you
9 know, if people would miss a shift or didn't show up, I would
10 hear her on the phone disciplining them.

11 Q. Okay. Did you ever hear her say anything? What would
12 she say to them?

13 A. She would be like, "Look, you fucking with my money."

14 Q. Anything else?

15 A. "If you don't go to work, you're F'ing with my money."
16 "You signed up for these shifts. I need you-all to be there.
17 You-all know you're supposed to be at work. This is what
18 you're supposed to do."

19 Q. Did she say anything about whether it was their business
20 or her business?

21 A. Just like, "You're messing with my money." So pretty
22 much her business.

23 Q. So did Steadfast have a code of conduct or behavior
24 expectations?

25 A. Yes, ma'am, they did.

—J. Jones - Direct—

1 Q. What were the expectations Steadfast had regarding
2 conduct?

3 A. To act professional, you know, go to work like you're
4 supposed to, show up on time and do what you're supposed to
5 do as whatever you are, a CNA or a nurse.

6 Q. If you were interested in a placement that Steadfast had
7 available, how would a nurse, like yourself, or even as a
8 scheduler, because you have it on both sides, find out more
9 about a placement opportunity, an assignment?

10 A. Repeat the question.

11 Q. Sure.

12 How would a nurse or CNA get an assignment?

13 A. We would call out and ask nurses or CNAs whether or not
14 they were available for a shift.

15 Q. After being placed at a facility, were you interviewed to
16 work by the facility, or did you just get to work right away?

17 A. You just went to work right away.

18 Q. If you did not receive pay from Steadfast, would you have
19 been able to meet your financial obligations?

20 A. No.

21 Q. Do you have an ownership interest in Steadfast?

22 A. No, ma'am.

23 Q. Are you an officer, manager, or director of the business?

24 A. No, ma'am.

25 Q. Do you own a percentage of Steadfast?

J. Jones - Cross

1 A. No, ma'am.

2 Q. When you went to different facilities that Steadfast had
3 contracts, were you required to wear a badge identifying you
4 as a Steadfast nurse?

5 A. Yes, ma'am.

6 Q. And have you ever received any back wages from Steadfast
7 for the hours you worked over 40?

8 A. No, ma'am.

9 MS. LEWIS: No further questions for this witness,
10 Your Honor.

11 THE COURT: Cross-examination.

12 CROSS-EXAMINATION

13 BY MS. RUST:

14 Q. Good afternoon, Ms. Jones.

15 A. Good afternoon.

16 Q. My name is Julia Rust. I'm an attorney for the
17 defendants, Steadfast and Lisa Pitts.

18 A. Yes, ma'am.

19 Q. I have a couple of questions about what you discussed.

20 So you worked as a CNA, and then you also worked in
21 the call center, right?

22 A. Correct.

23 Q. And you were paid overtime when you worked over 40 hours
24 in a workweek for the call-center shifts; is that correct?

25 A. Yes, ma'am.

—J. Jones - Cross—

1 Q. And you talked about when Lisa Pitts would -- you said
2 there were circumstances where she might discipline people
3 over the phone and that she would get mad when people picked
4 up shifts. I think you said she said, "You signed up for
5 these shifts."

6 So were those instances where people canceled the
7 shifts last minute and she would get frustrated about that?

8 A. Yes, ma'am. Or a no show.

9 Q. And a no call, no show.

10 And in those instances, did Steadfast try to fill
11 those shifts before they started or --

12 A. Yes, ma'am.

13 Q. Okay. And does it require a little bit of -- well, when
14 you have to fill a shift at the last minute because somebody
15 no-showed or canceled at the last minute, that would require
16 the call center to make a lot of phone calls quickly, or
17 reach out to nurses quickly to find someone who is willing to
18 stop what they're doing and go take a shift at the last
19 second, right?

20 A. Correct.

21 Q. Okay. Is that a lot of work, to try and find somebody?

22 A. Very. A whole lot of work.

23 Q. I bet. Okay.

24 You mentioned the behavioral expectations; to be
25 professional and show up on time as a nurse. Have you ever

J. Jones - Cross

1 worked a job where those were not the expectations?

2 A. No, ma'am.

3 Q. Whether that job classified you as a contractor or as an
4 employee?

5 A. No, ma'am.

6 Q. Okay. And when you worked as a CNA, were there
7 facilities that you preferred to work at over others?

8 A. I only went to three facilities. I really stayed on the
9 Peninsula side, in Newport News where I lived, so that's the
10 facility that I preferred to go to, so that's where I would
11 work at.

12 Q. So when you would call Steadfast and ask for available
13 shifts, if that was one of the options, you would choose that
14 facility over the others; is that correct?

15 A. Yes, ma'am.

16 Q. Okay. And were you allowed to schedule as many shifts as
17 you wanted?

18 A. Yes, ma'am.

19 Q. And you were able to negotiate higher rates of pay for
20 shifts with facilities; is that right?

21 A. No.

22 Q. What if there was a last-minute need in the call center,
23 did Steadfast -- well, let me rephrase that. That was
24 confusing.

25 From the call center, if you're trying to schedule a

—J. Jones - Cross—

1 shift last minute, would the facility often allow you to
2 offer a higher rate of pay than what was originally offered
3 for that shift?

4 A. Not the facility, but we could get it approved through
5 Lisa to offer a higher rate of pay.

6 Q. Okay. And did you receive training and education in
7 order to get your --

8 You said you were a CNA, right?

9 A. Yes, ma'am.

10 Q. -- in order to get your CNA certificate?

11 A. Yes, ma'am. I've been a CNA since 2001.

12 Q. Did Steadfast pay for any of your education or testing
13 for that?

14 A. No, ma'am.

15 Q. Without that certificate, would you be able to work as a
16 CNA?

17 A. No, ma'am.

18 Q. And you have never seen Lisa Pitts on site at a facility
19 while you were providing CNA services; is that right?

20 A. No, ma'am.

21 MS. RUST: Okay. I have no further questions.

22 Thank you, Ms. Jones.

23 THE WITNESS: You're welcome.

24 THE COURT: Any redirect?

25 MS. LEWIS: Just briefly, just one question.

—J. Jones - Redirect—

REDIRECT EXAMINATION

BY MS. LEWIS:

Q. Ms. Jones, when you were questioned about being able to offer a higher rate of pay after receiving Ms. Pitts' approval, was that an hourly amount or a lump-sum amount?

A. It would be an hourly amount. It just really depends on what the circumstance was.

Q. Okay.

A. Because I've had to offer somebody, like -- where if they needed a place to stay, like, she would pay for that hotel fee or something like that.

Q. So in those approvals in those situations, was that a regular occurrence or based upon Steadfast's needs to be able to fill shifts?

A. It was based upon the needs to fill shifts.

Q. So it wasn't based upon the nurses negotiating a rate, it was Steadfast's needs; is that right?

A. Yes, ma'am.

MS. LEWIS: No further questions.

THE COURT: May the witness be permanently excused?

MS. LEWIS: She may.

THE COURT: You may step down, ma'am.

(Witness excused.)

THE COURT: Your next witness?

MS. LEWIS: One moment, Your Honor.

—J. Jones - Redirect—

1 MS. RUST: Your Honor, if I may, as a housekeeping
2 matter, which, perhaps, might expedite some of the testimony,
3 I know the Department has asked quite a few of the nurse
4 witnesses if they were paid hourly rates and if they were
5 paid overtime. The pretrial order stipulated in paragraph 5
6 that nurses were paid hourly rates and overtime. So
7 that's -- well, that's what's stipulated to.

8 THE COURT: Wait a minute. You said there's a
9 pretrial stipulation they were paid hourly rates and
10 overtime?

11 MS. RUST: Sorry. They were paid hourly rates and
12 that they were not paid overtime for hours over 40.

13 THE COURT: That is established. You need not
14 establish that.

15 MS. LEWIS: Right. It's -- it was a foundational
16 question.

17 THE COURT: It's a foundational question?

18 MS. LEWIS: Yes, it's a foundational question, Your
19 Honor.

20 THE COURT: Well, I'll put it this way: In view of
21 the fact that it's foundational, you hit it, and you keep on
22 moving, we'll let it go. But you're right; we don't dwell on
23 things already established.

24 MS. RUST: Thank you.

25 (Witness sworn.)

~~A. Meggie - Direct~~

1 ASHLEY MEGGIE, called by the Plaintiff, having been
2 first duly sworn, was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MS. LEWIS:

5 Q. Good afternoon.

6 A. Good afternoon.

7 Q. If you could please state your name and spell your last
8 name for the record.

9 A. Ashley Meggie, M-e-g-g-i-e.

10 Q. Are you familiar with Steadfast?

11 A. Yes.

12 Q. And how are you familiar with the company?

13 A. I was an employee.

14 Q. What was your job title?

15 A. CNA.

16 Q. When were you employed at the company? And if you could
17 speak up a little bit.

18 THE COURT: Much louder.

19 BY MS. LEWIS:

20 Q. You have to leave your mask on. Just speak up.

21 A. From the fall of 2019 to present.

22 Q. So, currently, you are still employed at Steadfast; is
23 that right?

24 A. Correct.

25 Q. And as a CNA, what were your job duties and -- as a CNA

—A. Meggie - Direct—

1 at Steadfast, what are your job duties and responsibilities?

2 A. To report for my shifts, take care of the assigned
3 residents that I was assigned, and to turn in my time sheets.

4 Q. Did you ever work more than 40 hours in a workweek?

5 A. Yes.

6 Q. How many hours do you typically work each week?

7 A. Anywhere from 60 to 108 hours a week.

8 Q. You indicated a moment ago that part of your
9 responsibilities is submitting time sheets. To whom do you
10 submit time sheets?

11 A. To Steadfast.

12 Q. And when do you submit them?

13 A. We're supposed to submit them by 9:00 a.m. on Tuesday.

14 Q. I'm going to direct your attention to a document that has
15 now been marked as Plaintiff's 55.

16 MS. LEWIS: If you could scroll through that
17 document, please, Ms. Jones.

18 BY MS. LEWIS:

19 Q. Do you recognize these documents?

20 A. Yes.

21 Q. What are they?

22 A. My time sheets.

23 Q. And these are the time sheets that you submit to
24 Steadfast?

25 A. Yes.

—A. Meggie - Direct—

1 Q. Are they a true and accurate reflection of just some of
2 the time sheets that you've submitted?

3 A. Yes.

4 Q. You indicated that you could work anywhere between 60 and
5 108 hours a week.

6 MS. LEWIS: If you could scroll up, Ms. Jones.

7 BY MS. LEWIS:

8 Q. Who do you send your time sheets to at Steadfast?

9 A. Can you repeat that, please.

10 Q. Sure.

11 Who do you send your time sheets to at Steadfast?

12 A. To payroll.

13 Q. And you e-mail them?

14 A. Yes.

15 Q. And is this a true and accurate reflection of one of the
16 e-mails that you sent?

17 A. Yes.

18 Q. Is that your sort of summation of how many hours, rate of
19 pay, et cetera, for one workweek that you worked in?

20 A. Yes.

21 MS. LEWIS: Your Honor, I move to admit Plaintiff's
22 55.

23 THE COURT: Any objection?

24 MS. RUST: No objection.

25 THE COURT: Plaintiff's Exhibit 55 is hereby

~~A. Meggie - Direct~~

1 admitted.

2 (Plaintiff's Exhibit PX-55 received in evidence.)

3 BY MS. LEWIS:

4 Q. How much were you paid per hour?

5 A. Usually \$25 an hour.

6 Q. Have there been cases that you have been paid more or
7 less?

8 A. Certain buildings where we were paid more.

9 Q. Okay. Why the range?

10 A. It was just told to us by the staffing coordinators that
11 that building would pay us that much.

12 Q. And when you say the staffing coordinator for that
13 building, is that someone at the facility or someone at
14 Steadfast?

15 A. At Steadfast.

16 Q. Were you able to negotiate different pay?

17 A. No.

18 Q. Who set the rate of pay?

19 A. Steadfast.

20 Q. And who told you that it was Steadfast that set the rate
21 of pay?

22 A. The coordinators.

23 THE COURT: The what?

24 THE WITNESS: The staffing coordinators.

25 THE COURT: I'm still having difficulty hearing you.

—A. Meggie - Direct—

1 Who told you that?

2 THE WITNESS: The staffing coordinators.

3 THE COURT: Okay. Thank you.

4 BY MS. LEWIS:

5 Q. Does Steadfast make the ultimate decision to effectively
6 set your rate of pay?

7 A. Yes.

8 Q. What rate were you paid for hours worked over 40 in a
9 workweek?

10 A. I was not paid for any overtime.

11 Q. How frequently are you paid?

12 A. Weekly.

13 Q. Okay. In the past, have you ever done an expedited pay?

14 A. Yes.

15 Q. What is that called?

16 A. Next Day Pay.

17 Q. Can you tell me -- well, first, before going into
18 Next Day Pay, you said currently you are paid weekly. When
19 are you paid? What day of the week?

20 A. Friday.

21 Q. And you said in the past you did Next Day Pay?

22 A. Yes.

23 Q. Approximately how long ago was that?

24 A. From 2019 to April of this year.

25 Q. Okay. And tell me, what is Next Day Pay?

~~A. Meggie - Direct~~

1 A. You can get paid --

2 Q. If you could speak up a little bit.

3 A. You can get paid the next day, and, also, they take a
4 6 percent fee out of getting your pay early.

5 Q. Okay. How are you paid the next day? What do you need
6 to do, or is there anything that you need to do?

7 A. You need to turn in your time sheets to a separate e-mail
8 that's designated for Next Day Pay.

9 Q. And this e-mail here, is that the one reflected on the
10 screen in front of you, that PDF Page 19?

11 A. Yes.

12 Q. For the Next Day Pay, is it total the hours that you
13 work? Do you ever receive a pay stub at the end of the week
14 that you could use to verify "I worked X amount of hours; so,
15 therefore, this was my Next Day Pay for this entire week"?

16 A. No.

17 Q. Did you ever get pay stubs?

18 A. We never got pay stubs.

19 Q. Did you ever have any issues with your paychecks?

20 A. Yes.

21 Q. What was the issue?

22 A. The pay amounts weren't correct for dates that I turned
23 in that weren't paid out.

24 Q. Did you do Next Day Pay and always get paid the next day
25 when you did it?

—A. Meggie - Direct—

1 A. No. Sometimes it was late.

2 Q. And was that 6 percent still taken out even when it was
3 late?

4 A. Yes.

5 Q. How did you -- so you said sometimes it would be the
6 wrong amount, not getting paid, still the 6 percent.

7 So how did you keep track of the pay you received
8 from Steadfast?

9 A. I would ask them to send an e-mail, like the displayed
10 e-mail, breaking down the shifts and pay rates.

11 Q. Is there anything you did separate and apart from
12 reaching out to Steadfast to keep track of the pay you
13 received from Steadfast?

14 A. Yes.

15 Q. What was that?

16 A. I had a separate bank account that I used just for
17 deposits coming from Steadfast.

18 Q. And the purpose of you opening the separate account just
19 for pay from Steadfast was for what reason?

20 A. So that I could verify that I was employed and that I was
21 making a steady income.

22 Q. Did you receive a 1099 tax form from Steadfast in
23 February of each year?

24 A. I received one in April.

25 Q. Okay. So my understanding is you had started working for

—A. Meggie - Direct—

1 Steadfast in 2019; is that correct?

2 A. Yes.

3 Q. Did you receive a 1099 from Steadfast for 2019?

4 A. No.

5 Q. Did you receive a 1099, I guess, for last year? Is that
6 the one you are referring to that you received in April?

7 A. Yes.

8 Q. Did the 1099 accurately reflect the pay you received from
9 Steadfast?

10 A. No.

11 Q. How do you know?

12 A. I printed out all of my bank statements and added the
13 amounts together.

14 Q. Was the amount more or less than what Steadfast actually
15 paid you?

16 A. The amount that I added up was more than what was on the
17 1099.

18 Q. Have you received any back wages from Steadfast for hours
19 worked over 40?

20 A. No.

21 Q. And have you ever complained about not receiving
22 overtime?

23 A. Yes.

24 Q. When did you complain?

25 A. The first week that I worked with Steadfast.

—A. Meggie - Direct—

1 Q. And what was their response to your complaint?

2 A. "The reason you get the higher pay rate is because we're
3 not paying you overtime."

4 Q. Have you worked at other staffing agencies?

5 A. Yes.

6 Q. Did those other staffing agencies pay you overtime?

7 A. Yes.

8 Q. In terms of your experience working at other staffing
9 agencies, when you worked at the facilities, was their
10 supervision the same or different than Steadfast's when you
11 went to work?

12 A. The same. The same.

13 Q. What about in terms of setting the pay rate when you
14 worked at those other agencies relative to Steadfast? Were
15 you able to negotiate the rate of pay?

16 A. No.

17 Q. So with the other agencies, you couldn't, and with
18 Steadfast, it was the same?

19 A. Yes.

20 Q. What about the payment? How did Steadfast pay you? Was
21 it Steadfast that paid you or the facilities?

22 A. Steadfast.

23 Q. And Steadfast paid you directly into your bank account;
24 is that correct?

25 A. Yes.

—A. Meggie - Cross—

1 Q. So when you worked with the other agencies, did they,
2 likewise, pay you directly?

3 A. Yes.

4 Q. As a CNA, when you go and provide care for residents and
5 patients at facilities, whether you're working for Steadfast
6 or another agency, was the type of care that you provided
7 different?

8 A. No.

9 MS. LEWIS: No further questions for this witness,
10 Your Honor.

11 THE COURT: Cross.

12 CROSS-EXAMINATION

13 BY MS. RUST:

14 Q. Hi, Ms. Meggie. My name is Julia Rust. I'm an attorney
15 for the defendants.

16 You said that there were some instances where your
17 paycheck was incorrect; is that right?

18 A. Yes.

19 Q. And were you -- did you alert anybody at payroll at
20 Steadfast of those discrepancies?

21 A. Yes.

22 Q. And were those discrepancies resolved or explained?

23 A. No.

24 Q. What was the issue?

25 A. Sometimes they would say you're getting paid \$25 an hour

—A. Meggie - Cross—

1 and then --

2 THE COURT: Raise your voice, please.

3 THE WITNESS: Sometimes they said we were going to
4 get paid \$25 an hour, and then we were paid less. Or
5 sometimes I would turn in time sheets, and they forgot to
6 submit it, and I didn't get paid for that day.

7 BY MS. RUST:

8 Q. And were you able to notify them about the missing time
9 sheets? And they would resolve that, right?

10 A. I notified them. It was not resolved.

11 Q. Okay. But if you submit the time sheets and they're
12 accounted for, you get paid for them, right?

13 A. I did submit them. They were not paid out. So it was
14 not resolved.

15 Q. And do you know if there was an issue with the facility
16 approving the time that you had submitted for?

17 A. No, there was no issue with the facility.

18 Q. There was no issue, or you're not sure if there was an
19 issue?

20 A. I asked why I didn't get paid, and they said, "Oh, well,
21 you know, we're working on it." I never got paid.

22 Q. Okay. And you didn't follow up, so you don't know what
23 the issue was?

24 A. I wasn't explained what the issue was.

25 Q. So with the other agencies that you worked with, do you

—A. Meggie - Cross—

1 schedule shifts through multiple agencies at the same time
2 generally?

3 A. I'm sorry. Can you repeat that?

4 Q. Of course.

5 Do you typically schedule shifts through multiple
6 agencies at the same time?

7 A. I don't schedule my shifts. The staffing coordinators
8 schedule it.

9 Q. Let me back up.

10 You said you worked with other registries or
11 agencies, right?

12 A. In the past, yes.

13 Q. Did you work at those at the same time you picked up
14 shifts with Steadfast?

15 A. Not necessarily.

16 Q. Well -- okay. Are there certain facilities that you
17 prefer to work at?

18 A. No.

19 Q. You are happy with any facility you go to, typically?

20 A. Yes.

21 Q. Are there any facilities you don't enjoy going to?

22 A. No.

23 Q. Okay. Well, that's good.

24 So when you're discussing your availability with a
25 scheduling planner at Steadfast, are you allowed to select

—A. Meggie - Cross—

1 which of the facilities that they have available for your
2 schedule? Right?

3 A. I usually give my entire availability, and they will tell
4 me which facility needs help more.

5 Q. Okay. And that's because you provided the availability
6 you wanted to fill, right?

7 A. It just doesn't change. It's always the same.

8 Q. Okay. And you don't specify that you want to be at a
9 specific facility?

10 A. No.

11 Q. You just provide your availability and say "I'm happy
12 with whatever you've put in the schedule," right?

13 A. Yes.

14 Q. Okay.

15 MS. RUST: I have no further questions. Thank you.

16 MS. LEWIS: No redirect, Your Honor.

17 THE COURT: May the witness be permanently excused?

18 MS. LEWIS: Yes, Your Honor.

19 THE COURT: You may step down, ma'am.

20 (Witness excused.)

21 MS. LEWIS: Your Honor, what time will our break be?

22 THE COURT: Our break will be at 3:00.

23 MS. LEWIS: Kimberly Bellamy.

24 (Witness sworn.)

25 KIMBERLY BELLAMY, called by the Plaintiff, having

—K. Bellamy - Direct—

1 been first duly sworn, was examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. SEIFELDEIN:

4 Q. Good afternoon, Ms. Bellamy.

5 A. Hello.

6 Q. Could you state your full name for the record and spell
7 your last name, please.

8 A. It's currently Kimberly Ann Summers, S-u-m-m-e-r-s, but
9 it was Bellamy.

10 Q. And when did it change to Summers?

11 A. About a year ago.

12 Q. Are you familiar with the company Steadfast?

13 A. Yes.

14 Q. What type of service does Steadfast provide, Ms. Bellamy?

15 A. They staff different facilities with nurses and CNAs.

16 Q. Were you employed by Steadfast?

17 A. Yes.

18 Q. What was your job title when you worked for Steadfast?

19 A. LPN.

20 Q. When did you stop working for Steadfast?

21 A. Around January or February of 2020.

22 Q. I'm sorry?

23 A. Around January or February of 2020. You said when did I
24 stop?

25 Q. Okay. You stopped in 2020. When did you start? I

—K. Bellamy - Direct—

1 apologize. I wasn't very clear.

2 A. Oh, around June of 2017.

3 Q. And did you have to apply to work for Steadfast?

4 A. Yes.

5 Q. And what did you do to work for Steadfast? What did you
6 fill out?

7 A. I went to them, and I filled out an application, which
8 consisted of, you know, background checks and drug testing
9 and stuff like that, and my nursing license.

10 Q. Okay. An employment application?

11 A. Yes, sir.

12 Q. Okay. And after you completed the job or employment
13 application with Steadfast, did you meet with anyone at
14 Steadfast?

15 A. I met with -- I think her name was, like, Christine. She
16 did payroll.

17 Q. What is her name?

18 A. Christine.

19 Q. Christine Kim is the person you met with?

20 A. Yes.

21 Q. And when you met with Christine Kim, did she ask you
22 about your availability?

23 A. No. I just gave her my payroll information. And then,
24 as far as my availability, I spoke with a lady named Hope. I
25 gave her my availability and my schedule, and she told me

—K. Bellamy - Direct—

1 what they had available.

2 Q. Okay. So you spoke to Miss Hope, and she gave you that
3 information.

4 Before you left the building or at any point after
5 that, did Steadfast issue you a badge?

6 A. Yes.

7 Q. Did the badge have the name "Steadfast" on it?

8 A. Yes.

9 Q. Did it have a picture on it as well?

10 A. Yes.

11 Q. And did Steadfast take that picture?

12 A. Yes.

13 Q. And were you paid on an hourly basis?

14 A. Yes.

15 Q. Were you able to negotiate a different rate with
16 Steadfast?

17 A. No.

18 Q. Did Steadfast make the ultimate decision to effectively
19 set your rate of pay?

20 A. Yes.

21 Q. Were you able to structure the terms of your work
22 relationship with the facility directly?

23 A. No.

24 Q. Who did you set that working relationship with?

25 A. The schedulers at Steadfast.

—K. Bellamy - Direct—

1 Q. Did Steadfast give you an option to be classified as an
2 employee or independent contractor?

3 A. No.

4 Q. They just told you this is what you are?

5 A. Uh-huh.

6 Q. Do you recall what they told you your classification is?

7 A. Say that again.

8 Q. Did they tell you what you were classified as?

9 A. Just a 1099 contractor.

10 Q. And as part of working for Steadfast and getting
11 compensation, were you required to submit time sheets to
12 Steadfast?

13 A. Yes.

14 Q. And who issued you those time sheets that you were
15 required to submit to Steadfast?

16 A. We picked them up at the building.

17 Q. And did these time sheets have the name "Steadfast" on
18 them?

19 A. Yes.

20 Q. And was Steadfast's name on top of the time sheet --

21 A. Yes.

22 Q. -- on the header?

23 A. Uh-huh, yes.

24 Q. And who told you that you were required to submit these
25 time sheets?

—K. Bellamy - Direct—

1 A. I'm not sure of her exact name, but I do know I received
2 an e-mail from Christine saying that it had to be submitted
3 by Monday at a certain time. But who initially told me, I'm
4 not sure.

5 Q. But it was someone from Steadfast?

6 A. Yes.

7 Q. So once you submitted these time sheets, did you ever
8 submit a time sheet where you worked more than 40 hours in a
9 workweek?

10 A. Yes.

11 Q. And on average how many hours did you work per week?

12 A. I would say between 40 and 60.

13 Q. Between 40 and 60.

14 When you worked more than 40 hours in a workweek,
15 what rate of pay did Steadfast pay you for those hours when
16 you worked over 40?

17 A. It was the same rate of pay based upon the building that
18 we went to.

19 Q. So you were paid straight time, not time and a half?

20 A. Right.

21 Q. And once you received your check or direct deposit, did
22 you ever complain to Steadfast about not receiving overtime
23 or time and a half for the hours you worked over 40 hours?

24 A. Initially, I didn't, because they said we was
25 contractors, we wasn't supposed to be paid overtime, but when

—K. Bellamy - Direct—

1 I talked to some other people that worked for a different
2 agency who was contractors as well, they said their agency
3 was paying overtime. So I did inquire were we supposed to
4 get paid overtime, and they said, no, that contractors don't
5 get paid overtime.

6 Q. So you expressed concerns to Steadfast at some point
7 about not being paid overtime --

8 A. Yes.

9 Q. -- and the response was "We don't pay overtime"; is that
10 correct?

11 A. Yes.

12 Q. Do you, roughly, recall when that was? You said you
13 started working in 2017. Was it in '17, '18?

14 A. Probably close to the end of '17.

15 Q. Okay. So from '17 all the way through 2020 when you
16 left, Steadfast had not paid you time and a half for the
17 hours you worked over 40?

18 A. No. Unless it was holiday pay, but not overtime.

19 Q. Okay. I understand.

20 So if you weren't -- if you were not available to
21 work, did you have to give Steadfast a notice of your
22 unavailability?

23 A. Not -- no, not unless I picked up a shift and then I
24 couldn't make it, then I had to tell them, but that was about
25 it.

—K. Bellamy - Direct—

1 Q. So if you did pick up a shift and you were canceling the
2 shift, did you have to notify Steadfast?

3 A. Yes.

4 Q. Who told you that you needed to notify Steadfast?

5 A. The scheduler there.

6 Q. Was there a time frame or a period where you had to
7 notify Steadfast?

8 A. At least two hours prior to our shift.

9 Q. And does that work for both late arrival and cancellation
10 or just for cancellation?

11 A. Late -- it works for both. Even if we were going to be
12 late, we were supposed to let them know that we were going to
13 be arriving to the facility late.

14 Q. How about if you had a scheduling conflict and you
15 couldn't work? Could you send another LPN to take your place
16 without Steadfast's approval?

17 A. No. No.

18 Q. Were you allowed to employ another LPN to complete a
19 shift that Steadfast had assigned to you?

20 A. No.

21 Q. And if you were having issues with those time sheets we
22 talked about earlier that you submitted to Steadfast, who
23 would you communicate those concerns to?

24 A. Christine.

25 Q. Christine. So you would communicate the concerns to

—K. Bellamy - Direct—

1 Steadfast?

2 A. Steadfast, yes.

3 Q. Why wouldn't you communicate those concerns to the
4 facilities that you worked in?

5 A. Because we were already instructed that we don't deal
6 directly with the facility. They are not the ones paying us.
7 We deal with Steadfast.

8 Q. Who instructed you to do that?

9 A. Steadfast.

10 Q. Did you have a supervisor at Steadfast?

11 A. Not directly, but Hope is the one I normally talked to
12 about any concerns that I had.

13 Q. Okay. So what sort of concerns, other than the pay
14 issue, did you discuss with Hope?

15 A. You know, just like I said, if I couldn't get to work on
16 time or if I needed more hours, I would go to her. If I had
17 an issue at a facility, like, with one of the employers --
18 one of the other employees at a facility, then I would tell
19 Hope about it, and she would reach out to the managers there
20 and try to facilitate some type of agreement.

21 Q. So if there was an issue that you were experiencing at a
22 facility, you would address it with Steadfast, not the
23 facility?

24 A. Right.

25 Q. Did Steadfast have a code of conduct that they expected

—K. Bellamy - Direct—

1 you to adhere to?

2 A. Yes.

3 Q. Could you tell me about that.

4 A. Basically, report to work on time. When we get to work,
5 we go to the manager and let them know that we're there. We
6 should be dressed appropriately, you know, professional, have
7 all of our supplies ready. Make sure we submit our time
8 sheets on time. Just a regular professional code of conduct.

9 Q. Did Steadfast provide you with sort of a booklet or
10 pamphlet of these expectations at any point?

11 A. Not a booklet, but it came over in, like, an e-mail
12 fashion.

13 Q. Okay. E-mail.

14 Once you were placed at a facility, did you
15 negotiate the rate of pay with the facility?

16 A. No.

17 Q. Were you interviewed by a facility once you got there?

18 A. Not concerning pay.

19 Q. Did you receive any profit from Steadfast?

20 A. What do you mean "profit"? Just my regular paycheck.

21 Q. Just your paycheck, nothing else?

22 A. No.

23 Q. Okay. And you don't have any ownership interest in
24 Steadfast; is that correct?

25 A. No.

—K. Bellamy - Direct—

1 Q. Did you ever advertise that you are a business to
2 Steadfast or to anyone?

3 A. No.

4 Q. As an LPN, what type of equipment do you need to perform
5 your duties?

6 A. Blood pressure cuff, stethoscope, thermometer, pen,
7 paper, uniform.

8 Q. Are these normal tools of the trade that LPNs usually
9 carry with them?

10 A. Yes.

11 Q. Once you were sent to a facility or received an
12 assignment from Steadfast, did you have to buy special tools
13 to complete that shift?

14 A. Yes, I had -- I bought my own.

15 Q. I'm sorry?

16 A. I bought my own.

17 Q. Other than those you talked about, did you have to buy
18 any specific --

19 A. Oh, no.

20 Q. You did not buy equipment to complete a shift that
21 Steadfast assigned you?

22 A. No.

23 Q. And once you arrived at the facility, they had their own
24 equipment, correct, the bigger stuff?

25 A. Yes.

—K. Bellamy - Direct—

1 Q. Now, you are required to maintain a license to practice;
2 is that correct?

3 A. Yes.

4 Q. And is this license required regardless of which facility
5 Steadfast sent you to?

6 A. Yes.

7 Q. And the type of care that you provide to patients, is
8 that the same, also, regardless of which facility that you're
9 sent to?

10 A. Yes.

11 Q. And the care that you provide requires the same skill
12 levels of all LPNs?

13 A. Yes.

14 Q. To your knowledge, is Steadfast Medical providing other
15 services?

16 A. I'm sorry?

17 Q. To your knowledge, does Steadfast provide any other
18 services other than assigning nurses to facilities?

19 A. No.

20 Q. Since you stopped working for Steadfast, did you ever
21 receive back wages for the overtime hours that you worked?

22 A. No.

23 Q. Okay.

24 MR. SEIFELDEIN: No further questions for this
25 witness, Your Honor.

~~K. Bellamy - Cross~~

1 THE COURT: Cross-examination.

2 CROSS-EXAMINATION

3 BY MS. RUST:

4 Q. Hi, Ms. Summers.

5 A. Hello.

6 Q. My name is Julia Rust. I'm an attorney for the
7 defendants. I have a couple of questions regarding your
8 testimony.

9 You talked about your hourly rate. You said it was
10 when -- your hourly rate as a CNA, it was based on the
11 building?

12 A. As an LPN.

13 Q. I'm sorry. As an LPN, yes, it was based on the building.
14 So there were different rates depending on which facilities
15 you worked at; is that right?

16 A. Yes.

17 Q. When you were scheduling shifts with Steadfast, you said
18 you provided your availability, right?

19 A. Yes.

20 Q. And Hope would tell you which shifts matched up with that
21 availability?

22 A. Uh-huh, yes.

23 Q. I'm sorry?

24 A. Yes.

25 Q. And then were you able to pick which shifts she told you

—K. Bellamy - Cross—

1 were available that you wanted to work?

2 A. Yes.

3 Q. And would you choose a shift that had a higher hourly
4 rate over a lower hourly rate?

5 A. I would choose a shift that was available and closest to
6 my home.

7 Q. So the location was important to you?

8 A. Yes.

9 Q. So you could choose the facilities that were closer if
10 they were available to you?

11 A. Yes.

12 Q. Were there facilities you preferred to work at?

13 A. Just like I said, whatever was closest to me, but if I
14 had to go further out, then I would because I have four kids
15 to take care of.

16 Q. Okay. That's a lot.

17 A. Yeah.

18 Q. Were you able to request any pay advances or bonuses for
19 shifts from Steadfast when you were talking to Steadfast
20 about the shifts?

21 A. Not pay advances, no. But if she called on short notice
22 and asked if I could go somewhere, she might would try to
23 say -- well, she would say, "Well, I can help you with gas
24 or" -- if it was further out, "I could help you with gas or
25 maybe put you in a hotel for a couple days if you do a couple

—K. Bellamy - Cross—

1 of double shifts," or something like that. But as far as a
2 pay advance, no. But she did offer to help with gas if we
3 had to go further out.

4 Q. Okay. So typically when there was a last-minute need,
5 you were able to get additional incentives for a shift?

6 A. Yes, if I so chose to go.

7 Q. And did you ever work with any other staffing agencies or
8 registries?

9 A. I did work with one other staffing agency.

10 Q. Was it at the same time that you were working on
11 Steadfast's registry?

12 A. It was a short transition.

13 Q. Okay. And were you -- well, have you ever seen Lisa
14 Pitts on site at a facility while you were working a shift
15 for Steadfast?

16 A. You said did I receive -- what?

17 Q. Sorry.

18 Have you ever seen Lisa Pitts on site while you were
19 working a shift for Steadfast?

20 A. No.

21 Q. So nobody from the Steadfast office has ever supervised
22 you while you provided nursing services?

23 A. Not in the building, no.

24 Q. Okay.

25 A. But they have called to the facility to give specific

~~K. Bellamy - Cross~~

1 instructions.

2 Q. As an LPN, you're subject to certain regulations and
3 requirements that are set by the Board of Nursing; is that
4 right?

5 A. Yes.

6 Q. And you are required to follow those?

7 A. Yes.

8 Q. And are those the regulations and requirements that set
9 your scope of practice as an LPN? Is that right?

10 A. Yes.

11 Q. And you've never provided LPN services at Steadfast's
12 office in Norfolk; is that right?

13 A. At the building?

14 Q. Yeah, in Steadfast's office in Norfolk.

15 A. No, not at that building, just the buildings they
16 contract.

17 Q. And you talked about the code of conduct. You said
18 Steadfast wanted you to be on time, be professional, and
19 submit time sheets on time; is that right?

20 A. That was a list of some, yes.

21 Q. Have you ever worked a job where those were not the
22 expectations?

23 A. As an employee?

24 Q. As an employee or a contractor, any job.

25 A. No.

—K. Bellamy - Redirect—

1 MS. RUST: Okay. Thank you. I have no further
2 questions for you.

3 MR. SEIFELDEIN: Briefly, Your Honor.

4 THE COURT: Briefly.

5 MR. SEIFELDEIN: Thank you. I understand.

6 REDIRECT EXAMINATION

7 BY MR. SEIFELDEIN:

8 Q. Ms. Bellamy, Ms. Rust asked you about you providing your
9 availability to Ms. Hope and then you picking the shifts that
10 are available.

11 Would you know -- actually, strike that.

12 You could only work the shifts that Miss Hope
13 presented to you, correct?

14 A. Yes.

15 Q. So if you wanted to work at another facility and they did
16 not present it to you, you wouldn't know if Steadfast
17 actually had that shift available, correct?

18 A. Right.

19 Q. And you could not go to the facility that's nearest your
20 home and ask them, "Hey, I want to work this shift," correct?

21 A. No, we couldn't.

22 Q. And you would have to go through Steadfast?

23 A. Yes.

24 Q. Ms. Rust asked you about working for another agency.

25 Which agency did you work for?

—K. Bellamy - Redirect—

1 A. First Choice Nurses.

2 Q. First Choice. Okay.

3 And when you worked for First Choice, did you ever
4 work more than 40 hours in a workweek?

5 A. Yes.

6 Q. When you worked more than 40 hours in a workweek with
7 First Choice, did they pay you overtime?

8 A. Initially, they didn't, but then they began to pay
9 overtime. They said it had to be approved prior by the
10 facility that we were going to, and if they agreed to pay us,
11 then we could work overtime, but if they didn't, then we
12 couldn't work past the 40 hours.

13 Q. So you didn't work more than 40 hours, but when you did
14 work more than 40 hours, they did pay you overtime?

15 A. Yes.

16 Q. And when you worked for First Choice, did you set your
17 schedule in a similar manner as you did with Steadfast?

18 A. Yes.

19 Q. And the pay, was it done in a similar manner as it was
20 with Steadfast?

21 A. Yes.

22 Q. So you were scheduling to go through First Choice and not
23 the facility?

24 A. Yes.

25 Q. But the facility -- excuse me -- First Choice did pay

—K. Bellamy - Redirect—

1 overtime, correct?

2 A. Yes.

3 Q. And Steadfast did not pay you overtime?

4 A. No.

5 MR. SEIFELDEIN: No further questions, Your Honor.

6 THE COURT: May the witness be permanently excused?

7 MR. SEIFELDEIN: Yes, Your Honor, the witness may be
8 excused.

9 THE COURT: Step down.

10 (Witness excused.)

11 THE COURT: Next witness?

12 MS. LEWIS: Your Honor, we have a remote witness.

13 It looks like she was on and then she was gone. Is there a
14 way that we can try to take a moment so we can try and see
15 what's going on? She's out of the country, and I know
16 there's weather going on there right now, and I want to be
17 sure that if she's not going to be available, we're not
18 holding things up.

19 THE COURT: Okay.

20 MS. LEWIS: Thank you.

21 (Pause in the proceedings.)

22 THE COURT: I would note that you are reaching the
23 point of being overly cumulative.

24 MS. LEWIS: Understood.

25 (Witness sworn remotely.)

—T. Morey - Direct—

1 TERESA MOREY, called by the Plaintiff, having been
2 first duly sworn, was examined and testified via ZoomGov.com
3 as follows:

DIRECT EXAMINATION

4
5 BY MS. LEWIS:

6 Q. Good afternoon, Ms. Morey. I'm Ryma Lewis on behalf of
7 the Department of Labor.

8 If you could, please state your name for the record
9 and spell your last name.

10 A. Teresa Morey, M-o-r-e-y.

11 Q. Are you familiar with Steadfast Medical Staffing?

12 A. Yes, I am.

13 Q. How are you familiar with the company?

14 A. I worked for Lisa Pitts, the owner of Steadfast.

15 Q. And what was your job title?

16 A. LPN, Licensed Practical Nurse.

17 Q. When did you start working for Steadfast?

18 A. I believe May of 2017.

19 Q. Do you still currently work for Steadfast?

20 A. No, I do not.

21 Q. How did you apply to work for the company?

22 A. Online. The application was sent to me through Lisa, and
23 I was to fill it out and send it back.

24 Q. Was that an employment application?

25 A. Yes, ma'am.

—T. Morey - Direct—

1 Q. And did it have you submit references?

2 A. Yes, ma'am.

3 Q. Were you required to complete a drug test?

4 A. Yes, ma'am.

5 Q. Did you pay for that test?

6 A. No.

7 Q. Were you required to complete a background test?

8 A. Yes, ma'am.

9 Q. And did you pay for that test?

10 A. No.

11 Q. How much were you paid per hour?

12 A. \$30 an hour.

13 Q. And was that -- did that rate vary?

14 A. It was a flat rate of 30 an hour unless she got a call
15 and was desperate and needed someone to go somewhere, and she
16 would call and say, "I will give you an extra \$2 an hour if
17 you pick this shift up."

18 Q. Were you paid a different rate for hours worked over 40?

19 A. No, we were not.

20 Q. And who set the rate of pay?

21 A. Lisa Pitts.

22 Q. Did you ever work more than 40 hours in a single
23 workweek?

24 A. Yes, ma'am.

25 Q. When did you work over 40 hours in a workweek? Was it a

—T. Morey - Direct—

1 consistent or inconsistent thing?

2 A. No. Pretty much -- pretty much every week I would work
3 sometimes 40 or more hours over a week.

4 Q. I want to direct your attention to what's been marked as
5 54. Can you see the document?

6 A. It's --

7 MS. LEWIS: Actually, let's go to 6 instead.

8 BY MS. LEWIS:

9 Q. I want to direct your attention to what's been marked as
10 Plaintiff's 6, starting at Page 251.

11 So in a workweek, approximately how many hours were
12 you working? You said over 40. Can you provide me a range?

13 A. Basically 70 to 80 to somewhere upwards of 120 hours a
14 week.

15 Q. How in the world would you be able to work over 100 hours
16 in a workweek? Can you tell me what your schedule looked
17 like?

18 A. Pretty much three or four hours of sleep a night seven
19 days a week; some days, 16-plus hours. One day in
20 particular, I believe I worked 21 and a half hours.

21 Q. In this exhibit that you see here in front of you, can
22 you see the total amount of hours? It's the third line there
23 that is highlighted by your name.

24 A. I apologize. I can't. It's so blurry on the computer.

25 Q. That's fine. It's no problem.

—T. Morey - Direct—

1 So how did you submit your time?

2 A. I would fill out a time sheet, and I would either e-mail
3 it in or take a picture and send it in via text message.

4 Q. I want to direct your attention to, now, an
5 exhibit that's been marked as 54.

6 A. Okay.

7 THE COURT: Did you move the previous exhibit into
8 evidence?

9 MS. LEWIS: No, Your Honor, that was just to refresh
10 recollection. If I may, she's having trouble figuring out
11 which document she needs to point to.

12 (Pause in the proceedings.)

13 BY MS. LEWIS:

14 Q. Can you see these documents?

15 A. The document on the screen says "Payroll Details" at the
16 top, and it has my name highlighted, and it's --

17 Q. I think you have a delay on your end.

18 A. Okay.

19 Q. Can you see it now?

20 A. Yes. Right now it's just showing me the courtroom.

21 Q. We'll come back to this until it catches up with us.

22 Were you restricted from accepting placement
23 opportunities with other companies when you worked at
24 Steadfast?

25 A. Yes, ma'am.

—T. Morey - Direct—

1 Q. Did you have to wait a period of time before you could
2 start working at the facility?

3 A. It would have to be -- after you terminated your
4 employment with Lisa, you would have to wait a year before
5 you could work for any of the companies that you had worked
6 for under her.

7 Q. Who told you that?

8 A. Lisa Pitts.

9 Q. Why would you have to wait?

10 A. Because you were an employee of hers, and in order for
11 you to work for another company, they would have to buy out
12 your agreement with her.

13 Q. Did this occur with you? Did you personally experience
14 this?

15 A. Yes. I started at Avante in Lynchburg as a floor nurse,
16 and they moved me into an LPN position -- I mean, as a unit
17 manager position, still up under Lisa; and, eventually, they
18 went to -- Avante management went to Lisa to buy my contract
19 out. I don't know the details because I wasn't involved with
20 that.

21 Q. When that happened, did Lisa approach you about that?

22 A. She spoke with me, but they handled all the details
23 between her and Avante.

24 Q. So did you receive any funds from Lisa for the buyout?

25 A. No, not at all.

—T. Morey - Direct—

1 Q. Were you involved in that negotiation?

2 A. No.

3 Q. Do you know how much she received for the buyout?

4 A. I don't. I was told it was 10,000 or more, but I don't
5 know the details. That's just hearsay.

6 MS. RUST: Objection. Hearsay.

7 THE WITNESS: I'm sorry. I was told through the DON
8 at the facility. I did not hear that directly.

9 MS. LEWIS: I'll move on.

10 BY MS. LEWIS:

11 Q. So when this buyout period was happening, were you still
12 working for Steadfast?

13 A. Yes.

14 Q. Did anything happen with your hours?

15 A. Yes. I was told I had to cut back hours -- this was
16 through Lisa -- until they finished getting everything worked
17 out.

18 Q. Okay. And so during that time, were you able to work at
19 any other facilities, or did your income just sort of
20 decrease during that time?

21 A. No. I wasn't allowed to work at any other facility. It
22 was decreased.

23 Q. Were you required to maintain your own malpractice or
24 liability insurance?

25 A. No.

—T. Morey - Direct—

1 Q. Were you required to maintain your own Workers' Comp
2 Insurance?

3 A. No.

4 Q. Were you given the option to be classified as an
5 independent contractor or an employee?

6 A. No. My understanding is I was an employee of Lisa's.

7 Q. I want to come back to the buyout that we were just
8 talking about a moment ago.

9 Did Lisa tell you whether or not you would be faced
10 with consequences if you just stopped working for her?

11 A. If I stopped working for her and then just went to work
12 for Avante, yes.

13 Q. What did she tell you?

14 A. I could be held liable and she could file a civil suit
15 against me.

16 Q. On what basis? What did she tell you she would file a
17 civil suit against you for?

18 A. Because if you work for her, once you terminate your
19 employment with her, you have to wait a year before you can
20 work at any of the facilities that you worked for under her.

21 Q. And who was your supervisor at Steadfast?

22 A. Lisa Pitts.

23 Q. Have you received any back wages from Steadfast for hours
24 worked over 40?

25 A. No.

—T. Morey - Direct—

1 Q. Did you ever question Steadfast and/or Lisa about being
2 paid overtime?

3 A. Yes. And I was told that Lisa told me herself that they
4 do not pay overtime. It's a flat rate of \$30 an hour, or
5 whatever your pay is. Mine, in particular, was 30 an hour.

6 Q. Did she ever tell you -- make any other representations
7 about whether or not they would permit you to work overtime,
8 over 40 hours in a week?

9 A. Oh, yeah, I could work all the overtime I wanted. I just
10 wasn't paid time and a half. I was only paid the flat rate
11 of 30.

12 Q. I want to go back and see if we can get this exhibit to
13 work. Tell me if you can see these.

14 A. It's just a white screen on my end.

15 Q. Okay. Give it a second.

16 THE CLERK: Your Honor, this is what she sees. This
17 is what we see.

18 THE COURT: We don't know what the reason for that
19 is?

20 THE CLERK: I do not. It's technical.

21 BY MS. LEWIS:

22 Q. Can you see anything now?

23 A. It's just a white screen.

24 THE COURT: Well, I think, Ms. Lewis, you will have
25 to figure out some way to navigate around that.

—T. Morey - Direct—

1 MS. LEWIS: Okay.

2 BY MS. LEWIS:

3 Q. So, coming back, you submitted time sheets to Steadfast;
4 is that right?

5 A. Yes.

6 Q. And you submitted them, and the time sheets reflected
7 your schedule that you worked at whatever specific facility?

8 A. Yes.

9 Q. And you had to sign those time sheets?

10 A. Yes.

11 Q. And then they were submitted to -- then the time sheets
12 were submitted to Steadfast as a concurrent or near-time
13 record of the hours that you worked at whichever facilities
14 you worked; is that right?

15 A. Yes. I had to sign them, and, also, management personnel
16 at the facility, verifying that those were hours I actually
17 worked, had to sign them, and then I submitted them to Lisa.

18 THE COURT: The Court will simply suggest that you
19 were leading your witness.

20 MS. LEWIS: Okay. Your Honor, I move to admit
21 Plaintiff's 54.

22 THE COURT: Any objection to Plaintiff's 54?

23 MS. RUST: No, Your Honor.

24 MS. LEWIS: No further questions for Ms. Morey.

25 THE COURT: Plaintiff's 54 is admitted.

—T. Morey - Cross—

1 (Plaintiff's Exhibit PX-54 received in evidence.)

2 MS. LEWIS: Stand by, Ms. Morey. Opposing counsel
3 will have some questions for you.

4 CROSS-EXAMINATION

5 BY MS. RUST:

6 Q. Hi, Ms. Morey, my name is Julia Rust. I'm an attorney
7 for the defendants. I have a couple of questions about your
8 testimony.

9 You're not currently working on Steadfast's
10 registry; is that right?

11 A. No.

12 Q. Are you currently employed directly by a facility?

13 A. Yes.

14 Q. Are you employed by Avante or Accordius?

15 A. No, I'm not.

16 Q. When did you start your current employment?

17 A. February of this year.

18 Q. And when did you stop working on Steadfast's registry?

19 A. I believe it was November of 2017.

20 Q. Okay. So you were just there for a couple of months?

21 A. May, June -- May through November, I believe, is what it
22 was.

23 Q. Where did you go after that? What were you doing for
24 work after that?

25 MS. LEWIS: Your Honor, objection as to relevance.

—T. Morey - Cross—

1 THE COURT: Sustained.

2 MS. RUST: Well, Your Honor, she testified regarding
3 whether she was allowed to work for a year after her time at
4 Steadfast.

5 THE COURT: Okay. If that's the basis for it, then
6 the Court would permit it, but as the Court recalls, I think
7 the testimony was she was threatened and she was told --
8 maybe it was a year.

9 MS. LEWIS: Your Honor, if I may, Ms. Morey's
10 testimony is she wasn't allowed to work for the facility she
11 was working at that Steadfast had placed her with for a year.
12 She didn't testify "I wasn't allowed to work anywhere." She
13 said she wasn't allowed to work at the facility.

14 The testimony and the line of questioning was
15 related to her relationship with Steadfast, the facility she
16 was working at for Steadfast, and what restrictions, if any,
17 Steadfast placed on her ability to take a permanent position
18 at that facility or other facilities Steadfast placed her at.

19 THE WITNESS: Yeah.

20 THE COURT: Well, okay. Even with that, the Court
21 is going to permit her to answer that question.

22 MS. RUST: Thank you, Your Honor.

23 BY MS. RUST:

24 Q. Ms. Morey, I'll go ahead and restate that for you.

25 So after you stopped working on Steadfast's

—T. Morey - Cross—

1 registry -- you said around November 2017 -- where did you
2 work after that?

3 A. I worked at Avante in Lynchburg, because they bought my
4 contract out from Lisa.

5 Q. Did Lisa Pitts or anybody else at Steadfast tell you that
6 the contract had actually been bought out?

7 A. Yes. Lisa did.

8 Q. You said you were not part of the negotiations between
9 Steadfast and Avante regarding any buyout, though, right?

10 A. No.

11 Q. So you don't know what the ultimate determination was
12 between --

13 A. No, I don't.

14 Q. So it's possible, then, that they did not negotiate a
15 buyout, but Steadfast did not pursue any liability against
16 you for working at Avante after that?

17 THE COURT: Sustained.

18 MS. LEWIS: If I can just make it for the record.

19 THE COURT: Your objection was?

20 MS. LEWIS: My objection was speculation.

21 THE COURT: The Court anticipated that. You're
22 calling for speculation. So the objection is sustained.

23 MS. RUST: Of course. Thank you.

24 BY MS. RUST:

25 Q. Have you ever been involved in Steadfast's negotiations

T. Morey - Cross

1 with facilities for the contracts it has to staff those
2 facilities?

3 A. Only aspect I was involved in is once I was working
4 officially through Avante, our staffing needs of what holes
5 we needed to fill, I would give that to the DON, and then she
6 would go through Lisa to cover holes.

7 Q. So if I understand correctly, it was only once you were
8 working through Avante, you might have -- is that what you
9 said? You were negotiating on behalf of Avante with
10 Steadfast?

11 A. No. The only thing I did is, based on our schedule, we
12 have to have X amount of nurses and X amount of CNAs for our
13 patient-to-staff ratio. So when I was the unit manager, when
14 we didn't have staffing, based on what the needs were to get
15 nurses and CNAs in there, I would say, "We have X holes. I
16 need X amount of nurses and X amount of CNAs on this day or
17 that day."

18 I would give that information to the DON of the
19 facility, who would then call and speak with Lisa and get
20 those holes filled when she could. That would be my only
21 part in it.

22 Q. Okay. I see. But you've never been involved in the
23 actual negotiation of the staffing contracts between
24 Steadfast and --

25 A. No.

—T. Morey - Cross—

1 Q. Okay. And when you mentioned in your testimony that it
2 was -- you typically received \$30 an hour, unless there was a
3 situation where there was a last-minute need to pick up a
4 shift; is that right?

5 A. Yeah. That would be up to Lisa. If she was going to
6 offer -- she would call and ask, "Hey, can you pick up such
7 and such," but if she was desperate and couldn't get anybody
8 to pick it up, she would say something like, "I'll give you
9 an extra \$2 an hour if you could cover this for me."

10 Q. So in those instances, you could negotiate a higher
11 hourly rate for a shift; is that right?

12 A. No. There was no negotiation. It was --

13 Q. She would --

14 THE COURT: Only one of you-all can talk at a time.
15 Let's back up. What was the question again?

16 BY MS. RUST:

17 Q. I think the last question I asked was: So you could
18 negotiate a higher rate in those instances?

19 THE COURT: Your answer?

20 THE WITNESS: No. The incident in particular, she
21 called me. There was a need at Autumn Care in Altavista on
22 third shift. She said, "I know you just worked all day,"
23 she's like, "I know you haven't had any sleep, but if you
24 will cover this for me, I'll give you an extra \$2 an hour."

25 BY MS. RUST:

—T. Morey - Cross—

1 Q. Do you have any knowledge as to whether that increase in
2 hourly rate was authorized by the facility or not?

3 A. I don't handle that.

4 Q. Okay.

5 MS. RUST: I think those are all the questions I
6 have for you. Thank you, Ms. Morey.

7 THE COURT: The Court hasn't heard any evidence in
8 the case that the facilities where these people worked
9 controlled the rates they were paid. That was with respect
10 to your last question. But move on. No problem.

11 MS. RUST: Well, Your Honor, I would just proffer
12 that it would be something that we would intend to discuss in
13 our case in chief, at least, for the defense.

14 THE COURT: So you are raising a question based on
15 something not in evidence at this juncture.

16 MS. RUST: Understood. If I may, I believe I was
17 ask -- well, questioning the witness's knowledge as to who
18 was actually making an offer of an increased hourly rate,
19 because the witnesses have said that it was offered by
20 Steadfast. They may have received that information from
21 Steadfast, but they aren't aware of who actually authorized
22 that offer.

23 THE COURT: I thought your question was whether the
24 facility approved that \$2 increase that she offered. That's
25 what the Court is referring to.

~~T. Canady - Direct~~

1 Okay. Let's just move on. May this witness be
2 permanently excused, or is there any redirect?

3 MS. LEWIS: Permanently excused.

4 Thank you, Ms. Morey.

5 THE WITNESS: Thank you.

6 (Witness excused.)

7 THE COURT: Thank you very much.

8 MS. JONES: Tatianna Canady.

9 (Witness sworn.)

10 TATIANNA CANADY, called by the Plaintiff, having
11 been first duly sworn, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MS. JONES:

14 Q. Hi, Ms. Canady. Could you please state and spell your
15 name for the record.

16 A. Tatianna, T-a-t-i-a-n-n-a. My last name is C-, as in
17 cat, -a-n-a-d-y.

18 Q. And, Ms. Canady, are you familiar with Steadfast Medical
19 Staffing?

20 A. Yes.

21 Q. To your knowledge, what type of services does Steadfast
22 provide?

23 A. Travel nurse agency. She sends nurses to facilities.

24 Q. And were you employed or are you currently employed by
25 Steadfast?

~~T. Canady - Direct~~

1 A. Yes, I was.

2 Q. And when were you employed by Steadfast?

3 A. 2018 until 2020.

4 Q. And what was your job title when you were employed by
5 Steadfast?

6 A. Licensed practical nurse.

7 Q. And if you recall, how did you apply to work for
8 Steadfast?

9 A. I applied online, and then I went in to finish.

10 Q. And when you say you applied online, what specifically
11 did you complete online?

12 A. Something was sent through e-mail. It's not applied. I
13 was given paperwork from the receptionist over the phone,
14 that when I contacted Steadfast, she sent to my e-mail what I
15 needed to fill out, and then I had to come in and finish the
16 rest.

17 Q. So the online documents that were e-mailed to you, did
18 that include some sort of employment application?

19 A. Yes.

20 Q. Okay. And do you recall what type of information was
21 requested on that employment application?

22 A. I don't.

23 Q. And you indicated that you went into the office to
24 complete certain things. What did you go into the office to
25 complete?

—T. Canady - Direct—

1 A. A big packet, paper-wise. I had to finish a bigger
2 packet.

3 Q. Did that bigger packet contain any type of training
4 materials to your recollection?

5 A. No.

6 Q. Did it contain an independent contractor agreement?

7 A. I received an independent contractor agreement after I
8 was already working.

9 Q. Okay. And as part of the application process, did you
10 have to submit for a drug test?

11 A. Yes.

12 Q. And what about a background check?

13 A. I filled paperwork out for it.

14 Q. And once you submitted all of those documents and the
15 drug test and the background check, were you hired to work
16 for Steadfast?

17 A. Correct. I worked the exact same day.

18 Q. And how were you offered the position? Who offered the
19 position to you?

20 A. Lisa Pitts.

21 Q. And did you have a formal interview with anyone?

22 A. I -- I had a conversation with Ms. Lisa Pitts.

23 Q. And when you were employed by Steadfast, were you paid an
24 hourly rate, or were you paid a salary?

25 A. Hourly.

~~T. Canady - Direct~~

1 Q. Okay. And did your hourly rate ever vary?

2 A. Yes.

3 Q. To your knowledge, why did your rate vary?

4 A. I was informed it was because of the facilities we went
5 to. Every facility's price wasn't the same.

6 Q. And was there ever any incidents where you were told you
7 would be paid one hourly rate but were paid a lower hourly
8 rate?

9 A. Yes.

10 Q. When would you be made aware that your hourly rate would
11 be lower?

12 A. When I saw my check and I contacted Steadfast.

13 Q. And what did you do when you contacted Steadfast about
14 that lower hourly rate?

15 A. We were informed to try to get in touch with
16 Miss Christine, and I would e-mail Miss Christine, but
17 nothing was ever resolved.

18 Q. Did Miss Christine ever respond to your e-mails?

19 A. Yes.

20 Q. And what was the response regarding that lower hourly
21 pay, if you recall?

22 A. Most of the time, she'll check into it.

23 Q. When you say Miss Christine, is Miss Christine an
24 employee of Steadfast?

25 A. I was informed that she ran payroll.

~~T. Canady - Direct~~

1 Q. She ran payroll for Steadfast?

2 A. Correct.

3 Q. And during your time with Steadfast, were you ever able
4 to structure your relationship with the facility directly?

5 A. No.

6 Q. Were you required to go through Steadfast?

7 A. Correct.

8 Q. And to your knowledge, who negotiated your hourly rate of
9 pay?

10 A. Lisa.

11 Q. And were you required to maintain your own malpractice or
12 liability insurance?

13 A. I wasn't informed, if I was.

14 Q. I'm sorry?

15 A. I was not informed of that, if I was.

16 Q. So was that a no, you didn't provide it?

17 A. No. I did not provide it, no.

18 Q. And what about Workers' Compensation Insurance?

19 A. No, I didn't have anything with that either.

20 Q. Were you given the option to be classified as an
21 independent contractor or as an employee?

22 A. No. Again, I received the independent contractor after,
23 through e-mail, because I guess paperwork wasn't all the way
24 up-to-date, so we received extra paperwork later on to
25 complete, and that's when the independent contractor came up,

~~T. Canady - Direct~~

1 the agreement.

2 Q. Do you know how -- prior to receiving that agreement, do
3 you know how Steadfast classified you? Did they classify you
4 as an employee or independent contractor?

5 A. Independent contractor.

6 Q. And that was even before you signed that agreement?

7 A. Yes, ma'am.

8 Q. And just based upon your general knowledge, do you know
9 what is required to be considered an independent contractor?

10 A. I do now.

11 Q. So you identified as an independent contractor because
12 that's what Steadfast identified you as?

13 A. I identified as contractor. I didn't know the
14 independent part, but yes, ma'am, we were identified as
15 contractors.

16 Q. And do you advertise your healthcare services in any way?

17 A. I'm sorry. What was that?

18 Q. Do you advertise your healthcare services as an LPN in
19 any way?

20 A. Advertise? Can you --

21 Q. Do you specifically, as Tatianna Canady, represent your
22 services to any facility on your own, independently of
23 Steadfast or any other facility?

24 A. Not other than Steadfast, no.

25 Q. And when you were employed by Steadfast, were you

—T. Canady - Direct—

1 required to submit time sheets?

2 A. Correct.

3 Q. And were you required to submit those time sheets to
4 Steadfast?

5 A. Correct.

6 Q. And how often did you submit those time sheets?

7 A. It should have been after every shift.

8 Q. And who told you that you were required to submit time
9 sheets?

10 A. It was within the packet that we received once we got --
11 when I got to the facility -- I mean, to Steadfast to finish
12 the rest of my paperwork. One of the paperworks did state
13 that we were supposed to sign -- get a signature after every
14 shift.

15 Q. And you got the signature from -- from who did you get
16 the signature on the time sheet from?

17 A. Most of the time it was whatever nurse for that facility
18 that was working with me. If we did not have a nurse at that
19 facility, whatever nurse I was working with at that time.

20 Q. And then after, you would submit that signed time sheet
21 to Steadfast?

22 A. Correct.

23 Q. And let's talk a little bit about your work schedule when
24 you were working with Steadfast. What was your schedule?

25 A. I didn't have a schedule. I picked my hours.

—T. Canady - Direct—

1 Q. So what hours did you generally work?

2 A. Nights, days, evenings. I worked all of them.

3 Q. So, specifically, how many hours would you work each
4 shift that you worked?

5 A. 16-plus.

6 Q. And so how was your -- you indicated that you picked your
7 shifts. How did you pick your shifts?

8 A. I would tell them what days I was available, and they
9 would inform me if there was availability there. If not, I
10 will ask for a different recruiter who also worked in maybe a
11 different area to pick up whatever I couldn't get from that
12 one recruiter.

13 Q. So would Steadfast provide you the facilities for your
14 schedule?

15 A. Correct.

16 Q. Have you ever turned down a shift Steadfast offered you?

17 A. Correct, yes.

18 Q. I'm sorry. What was that last word?

19 A. Yes.

20 Q. Did Steadfast do anything in response to that?

21 A. I was apprehended [sic]. I definitely got taken off the
22 shift for two weeks if I did not do what they wanted me to
23 do.

24 Q. If Steadfast offered you a shift -- strike that.

25 Did you ever work more than 40 hours in a workweek?

~~T. Canady - Direct~~

1 A. Yes.

2 Q. And how often would you say that you worked more than 40
3 hours?

4 A. How do you -- I guess I don't know exactly how I can say
5 it, but maybe three weeks out of a month every month. I
6 definitely did a lot of overtime -- a lot.

7 Q. And when you worked those overtime hours, how were you
8 compensated?

9 A. I was told that we had a straight-across-the-board price.
10 So I was just paid whatever the hourly was for that facility.

11 Q. So were you ever paid time and a half for overtime hours
12 worked while you worked for Steadfast?

13 A. No.

14 Q. Were you required to provide notice to Steadfast if you
15 were unavailable to work?

16 A. No. Most of the time I told them if we could work.

17 Q. I'm sorry. What was that?

18 A. We only told them if we could work.

19 Q. If you were running late for a shift, would you ever have
20 to call anyone to let them know?

21 A. Yes.

22 Q. And who would you call?

23 A. I would contact the recruiter.

24 Q. And that is the recruiter for Steadfast?

25 A. Correct.

—T. Canady - Direct—

1 Q. Were you allowed to employ any other LPN to assist you in
2 completing the shift assigned to you by Steadfast?

3 A. "Employ"?

4 Q. Yes. Could you hire another LPN to do the work for you?

5 A. No. I just gave the information to Steadfast if I knew
6 another worker, a referral.

7 Q. So you are saying you referred other LPNs to work for
8 Steadfast?

9 A. Correct. Yes, ma'am.

10 Q. But they could not cover your shift?

11 A. No. Not if we didn't call to see if it was okay, because
12 I did that and I ended up getting in trouble.

13 Q. So you got in trouble for trying to have someone cover
14 your shifts?

15 A. No. I tried to get somebody else's shift, and I didn't
16 know I was in trouble at that time. So I ended up getting in
17 more trouble.

18 Q. So what do you mean you were in trouble?

19 A. I guess I didn't do something prior for Ms. Pitts, and I
20 got taken off the schedule for a facility that I never got
21 canceled for that day. So when I went in, I thought I was on
22 the schedule. I was taken off. So, instead, I asked
23 someone who had a double shift if I could take their morning
24 and they take the evening, and she said it was fine, but we
25 have to contact the facility.

—T. Canady - Direct—

1 Once we contacted Steadfast to see if it was okay,
2 the recruiter gave an okay, but then she got a call back, and
3 the recruiter stated exactly, "I don't know what Lisa and
4 Tatianna have going on, but you better stay out of it. She
5 cannot take your shift and leave it alone." And I was off
6 the schedule for two weeks.

7 Q. So Steadfast removed you from the schedule for two weeks
8 for attempting to take someone else's shift -- a part of
9 someone's double shift?

10 A. No. She took me off before the shift. I didn't know I
11 was off. So when I tried to take that shift, it was pretty
12 much letting me know, no, you cannot take the shift, and, no,
13 you are not working at all.

14 Q. So as a result of that, did you state that you were taken
15 off the schedule completely for two weeks?

16 A. I was. I was informed by the recruiter to just give her
17 time to cool down.

18 Q. Give who time to cool down?

19 A. Miss Lisa, because I was taken off because of her.

20 Q. So during the times you were working with Steadfast, did
21 they ever allow you to negotiate your rate of pay with the
22 facility directly?

23 A. No.

24 Q. So who was responsible for the negotiation with the
25 facility?

~~T. Canady - Direct~~

1 A. Steadfast.

2 Q. And when you were at the facility, did you interview with
3 them prior to starting the shifts there?

4 A. No. I just went straight to work.

5 Q. Did you ever communicate with the facilities you worked
6 for directly to establish the shifts?

7 A. Sometimes, yes. Because I started noticing if I did not
8 go through the facility, I would be taken off schedules
9 without knowing information.

10 Q. And if you did schedule a shift with the facility, would
11 you be required to let Steadfast know that you were picking
12 up a shift?

13 A. We were required, yes.

14 Q. And do you know why you were required to let Steadfast
15 know?

16 A. I was not. I don't know why. I don't.

17 Q. Other than your hourly rate, did you receive any other
18 profits from Steadfast?

19 A. We would be told -- if it was, like, a last-minute shift
20 or anything, we would get incentives, but once I got paid, my
21 incentives was never there, really.

22 Q. So outside of your hourly rate and the rates that you
23 were paid to work at the facility, did you receive any other
24 compensation?

25 A. Not often, but like I said, if she gave us \$2 extra,

~~T. Canady - Direct~~

1 sometimes I probably would see it, and others, I would not.

2 Q. But just to clarify, that was because of your work at the
3 facility?

4 A. Correct.

5 Q. And who paid you for the work and the services that you
6 provided at the facilities?

7 A. Steadfast.

8 Q. If you didn't receive your check or compensation from
9 Steadfast, would that impact your ability to meet your
10 financial obligations?

11 A. Yes.

12 Q. And do you have any ownership interest in Steadfast?

13 A. No.

14 Q. And as an LPN, what type of equipment or supplies do you
15 use to complete your job?

16 A. Stethoscope, blood pressure cuff, thermometer. We have
17 bags, pens, papers, clipboards.

18 Q. Are those items that you detailed, are those considered
19 normal tools of the trade?

20 A. Correct.

21 Q. When you are at a facility for an assignment, are you
22 required to provide your own supplies outside of the tools of
23 the trade that you would use?

24 A. Correct.

25 Q. And are you required to hold a license to practice as an

~~T. Canady - Direct~~

1 LPN?

2 A. Correct.

3 Q. Is this license required regardless of what facility you
4 are placed to work in?

5 A. Yes.

6 Q. And as an LPN, what type of care do you provide to
7 patients?

8 A. I pass medications --

9 Q. What type of care -- oh, sorry.

10 A. I pass medications to the residents. Sometimes I have
11 hands-on, but most of the times, it's passing meds.

12 Q. And do you do these same type of services regardless of
13 the facility you are placed in?

14 A. Yes, ma'am.

15 Q. And did you ever complain about not receiving time and a
16 half for hours worked over 40?

17 A. Yes.

18 Q. Who did you complain to?

19 A. Mostly the recruiters is who we had more contact with.

20 Q. And what was their response?

21 A. I really don't remember.

22 THE COURT: What was that?

23 THE WITNESS: I don't remember.

24 BY MS. JONES:

25 Q. After those conversations, did you ever receive time and

—T. Canady - Cross—

1 a half or overtime?

2 A. No.

3 MS. JONES: I have no further questions.

4 THE COURT: The Court has a question, and maybe I
5 should ask it before your cross in case you want to follow up
6 on it.

7 Did you have health benefits when you were working
8 for Steadfast?

9 THE WITNESS: No, sir.

10 THE COURT: No health insurance?

11 THE WITNESS: No health insurance.

12 THE COURT: Okay. So Steadfast didn't offer health
13 benefits?

14 THE WITNESS: No, sir.

15 THE COURT: All right. Thank you.

16 Cross-examination.

17 CROSS-EXAMINATION

18 BY MS. RUST:

19 Q. Hi, Ms. Canady.

20 A. Hello.

21 Q. My name is Julia Rust. I'm an attorney for the
22 defendants.

23 You said you were able to schedule some shifts
24 directly with the facility; is that right?

25 A. Some, yes, ma'am.

—T. Canady - Cross—

1 Q. And when you were on site or -- let me -- actually, you
2 talked about time sheets?

3 A. Yes.

4 Q. When you would get a signature from somebody, from a
5 facility nurse, did they verify the number of hours that you
6 said you worked on the time sheet? Is that what the
7 signature was for?

8 A. That is what it was supposed to be for, yes.

9 Q. Okay. And when you would -- you talked about the process
10 for picking up shifts and that you would tell Steadfast what
11 you had available and pick your hours.

12 When they provided you with the available
13 opportunities, were you able to choose which facility you
14 wanted to be at, if any of them at all?

15 A. No.

16 Q. And if I need to rephrase -- that was a long question.
17 So if I need to rephrase, just tell me.

18 A. Yes. I think it's rephrasing. I don't know if I
19 understand correctly but --

20 Q. Let me rephrase it for you, then, so we're not confused.

21 A. Okay.

22 Q. So when you would call and tell what your availability
23 was and somebody at Steadfast would tell you what available
24 opportunities there were --

25 A. Uh-huh.

—T. Canady - Cross—

1 Q. -- then -- tell me if I'm wrong -- you would pick which
2 shifts you wanted to pick up, right?

3 A. Correct.

4 Q. And you could pick whether you wanted it based on the
5 time of the shift or the location of the shift; is that
6 right?

7 A. Correct.

8 Q. Okay. And based on the hourly rate that was offered for
9 that shift; is that right?

10 A. We didn't know our hourly rate, ma'am.

11 Q. I think you said the hourly rate varied at each facility.

12 A. Yes. But we never knew what facility was what price.
13 That wasn't a specific.

14 Q. And you said as part of the type of care that you offer
15 as an LPN was passing medications, right?

16 A. Correct.

17 Q. When you're on site at a facility, has Lisa Pitts or any
18 of the other office employees at Steadfast been on site to
19 supervise how you pass medications?

20 A. No.

21 Q. Okay.

22 MS. RUST: I have no further questions. Thank you,
23 Ms. Canady.

24 THE COURT: Any redirect?

25 MS. JONES: Just two quick questions, Your Honor.

~~T. Canady - Redirect~~

REDIRECT EXAMINATION

BY MS. JONES:

Q. Ms. Canady, you indicated that you could pick your schedule, but the schedule was based on what Steadfast presented to you?

A. Yes.

Q. So if they didn't present a facility to you, were you able to work there?

A. No, not at all.

Q. So, essentially, your schedule was based on what Steadfast provided to you?

A. Correct.

MS. JONES: I have no further questions, Your Honor.

THE COURT: May the witness be permanently excused?

MS. JONES: Yes, Your Honor.

(Witness excused.)

THE COURT: I think what the Court is going to do is just go on and take about a 15-minute break right here in between these witnesses.

MS. LEWIS: If I may, Your Honor, as a housekeeping matter. We provided our list of anticipated additional witnesses today, and we have at least five no-shows that we've been trying to get in touch with. They were subpoenaed, but with that, we don't -- yeah, we called them last night to confirm, and they confirmed. They are not here

~~T. Canady - Redirect~~

1 today now.

2 THE COURT: All five of these left are no-shows?

3 MS. LEWIS: Yes, Your Honor. And some of them we
4 had to move around from other days because of the changes.
5 So three of them -- Courtney Turner, Tiffany Trogdon, and
6 Ryan Thompson were moved up. And Andrea White and Tywann
7 White, they should be here, for sure, and we don't know where
8 they are.

9 THE COURT: Okay. Well, the Court will extend the
10 break by five minutes, and maybe 20 minutes will give you
11 more time to see if you can find someone. Otherwise, you
12 have no one to go forward with after we come back?

13 MS. LEWIS: That is correct, Your Honor.

14 THE COURT: Well, let's hope that something happens
15 over the break so that you can find some of these people.

16 MS. LEWIS: Yes, thank you.

17 (Recess from 2:49 p.m. to 3:19 p.m.)

18 THE COURT: Counsel, if you could update the Court
19 on the status of these witnesses. You can do it right there.

20 MS. LEWIS: Thank you, Your Honor.

21 Your Honor, we have had -- as indicated to the
22 Court, there were five witnesses today that we subpoenaed to
23 testify, in addition to there was one yesterday. So that's a
24 total of six witnesses, all of whom are current employees of
25 Steadfast, that have been responsive and indicated a

—T. Canady - Redirect—

1 willingness to testify, and they are under subpoena.

2 There's at least one individual who initially
3 indicated to us, when we were just able to reach him, that he
4 was scheduled to work today. Now, the Court has heard
5 numerous times what has happened if they cancel or turn down
6 shifts, and I just confirmed with him last night that he
7 would be here.

8 Now, it would be inappropriate to maintain a report
9 that something is amiss, but something is not right. And
10 this is -- nonappearance of these witnesses directly
11 undermines our ability to put on evidence in our case.

12 THE COURT: Okay. For the record, list the names of
13 the witnesses who got subpoenas and have not showed. As a
14 matter of fact, come to the podium. I thought it would be
15 quicker. Come on around.

16 MS. LEWIS: Andrea Tirado, T-i-r-a-d-o; Tywann
17 White, T-y-w-a-n-n; Courtney Turner; Tiffany Trogon; Ryan
18 Thompson; and Brandi Plummer.

19 THE COURT: Brandi who?

20 MS. LEWIS: Plummer.

21 Now, we have on the phone -- we were able to get in
22 touch with two of those six. Currently holding via video is
23 Ms. Courtney Turner. Tywann White initially indicated that
24 he was scheduled, but he said he would be able to leave his
25 shift and come, and he's on his way. But we have not been

~~T. Canady - Redirect~~

1 able to reach the remaining four.

2 THE COURT: Here's the procedure: Anyone who does
3 not show up in here faces the likelihood of fine and going to
4 jail. And the Court will issue a Show Cause to each of these
5 people who do not show as to why they should not be held in
6 contempt of this court, and the Court will have the U.S.
7 Marshals serve them. They will be brought to this Court, and
8 the Court will conduct a hearing. It won't be done during
9 this trial, but that's exactly what's going to happen here,
10 now, unless they in some kind of way find time to show up
11 here. But you're not going to ignore a subpoena from this
12 Court. I don't know where that idea popped into somebody's
13 head, but it doesn't work that way.

14 That being the case, we're prepared to move on, but
15 somebody is in serious jeopardy.

16 MS. LEWIS: Understood, Your Honor. If I may, just
17 with respect to -- the Court had indicated a little bit
18 earlier today that -- never mind, Your Honor. Excuse me.
19 Thank you for your time.

20 THE COURT: So is a witness here?

21 MS. JONES: Courtney Turner is on the Zoom.

22 (Pause in the proceedings.)

23 (Witness sworn remotely.)

24 COURTNEY TURNER, called by the Plaintiff, having
25 been first duly sworn, was examined and testified via

C. Turner - Direct

1 ZoomGov.com as follows:

2 DIRECT EXAMINATION

3 BY MS. JONES:

4 Q. Ms. Turner, could you please state and spell your last
5 name for the record.

6 A. Yes. C-o-u-r-t-n-e-y T-u-r-n-e-r. Courtney Turner.

7 Q. Are you familiar with Steadfast?

8 A. Yes, I am. That's where I work.

9 Q. And how long have you worked with Steadfast?

10 A. Ever since 2016.

11 Q. And what is your position with Steadfast?

12 A. A traveling CNA.

13 Q. Do you recall how you applied when you began working for
14 Steadfast?

15 A. By paper.

16 Q. And by "paper," do you mean a paper application?

17 A. Absolutely.

18 Q. Do you recall what type of questions were asked on that
19 application?

20 A. No. Many moons ago.

21 Q. Do you recall if you were required to give references?

22 A. Yes, I do know that.

23 Q. Were you required to provide any documents in support of
24 that application?

25 A. As far as our credentials, first aid, CPR, updated

C. Turner - Direct

1 license, you know, necessities for working in the building.

2 Q. Were you required to have a drug test? Can you hear me?

3 A. I'm sorry?

4 Q. Were you required to have a drug test?

5 A. Yes. That's how you could pass. You go to Greenwich
6 Road, you take a drug test, and then they report it to
7 Miss Lisa.

8 Q. After you submitted those applications and those
9 accompanying materials, were you interviewed by anyone at
10 Steadfast?

11 A. Melissa, at the time, meaning she was there for Lisa.

12 Q. After that interview with Melissa, were you hired by
13 Steadfast?

14 A. Yes. That was the whole process.

15 Q. And do you recall how you were offered the position to
16 work with Steadfast?

17 A. Yes. Once we took our drug screening, they reported it
18 to Miss Lisa, and her callers then offered you shifts, and
19 you could say "yea" or "nay."

20 Q. Are you paid an hourly rate or a salary?

21 A. Hourly rate, depending on where you go at the time.

22 Q. And who negotiates that hourly rate?

23 A. I'm guessing Miss Lisa.

24 Q. Do you negotiate that rate yourself with the facilities?

25 A. No.

—C. Turner - Direct—

1 Q. Have you ever had any issues getting shifts during your
2 employment with Steadfast?

3 A. No. Not -- no. Only like if you don't -- we can't get
4 written up, verbal warnings. We're agency. So we get what
5 is called DNR'd, and that's do not rehire. So Lisa, what
6 she'll do is, I guess, you just won't be on the schedule for
7 a couple of days. That's part of -- if you're late, you
8 know, these are things as an adult you should do, but that's
9 how she handles things.

10 Q. Are you required to submit time sheets?

11 A. Yes, Steadfast Medical time sheets. Steadfast Medical
12 pays -- pays from the time sheets.

13 Q. Are you saying that you e-mail those time sheets?

14 A. Yeah, we e-mail the time sheets in, yeah.

15 Q. How often are you required to submit those time sheets?

16 A. I submit mine after every shift.

17 Q. And do you recall who told you that you are required to
18 submit those time sheets?

19 A. Yeah. Lisa, Miss Lisa, you know, and her company, I
20 guess you would say. They e-mail you. They communicate,
21 this is how you do this, this is how you do that.

22 Q. When you say this is how you do this and this is how you
23 do that, is there anything specific that you're referring to?

24 A. Yes, ma'am. You fill out your time sheet; you make sure
25 you put your .5 for your break; don't put a double shift on

—C. Turner - Direct—

1 one sheet; and e-mail it.

2 Q. And the "they" you are referring to is Steadfast?

3 A. Yes.

4 Q. And what is your schedule when you work for Steadfast?

5 A. As you set it. It's how you set it. I take many shifts,
6 whether it be 7:00 to 3:00, 3:00 to 11:00, anything that's
7 available. You're in total control of what you do.

8 Q. Have you ever worked more than 40 hours in a workweek?

9 A. Absolutely. From the beginning.

10 Q. And when you say "absolutely," does that mean you do it
11 frequently?

12 A. Yes. I barely like to not to work overtime. I have an
13 abundance of kids, so I'm going to work overtime.

14 Q. That's totally understandable.

15 If you're interested in a placement that Steadfast
16 has, how do you find out about that opportunity?

17 A. Sometimes -- well, now, it's different, because now, you
18 know, they have this little phone app, and communication is
19 much better. And we can't compare the times because we
20 didn't have this accessibility, but back then, you would call
21 her scheduler.

22 Q. And would the scheduler provide you information about the
23 shifts?

24 A. Yes. People always know -- they deal with 100-and-some
25 people. So if I'm just working with Betty Boop over here --

—C. Turner - Direct—

1 being facetious -- but if I'm working with her and she's just
2 talking and I hear it and I ask, they never turn us down, but
3 it's not always offered to you if you didn't hear it through
4 the grapevine, so to speak.

5 Q. So just to confirm what you just said, you would have to
6 ask -- you could ask for a facility, but it wasn't always
7 offered to you to work at that facility?

8 A. Yes, because it might be a new facility and they're
9 not -- they're trying to get into the swing of things. They
10 already have solidified facilities that they know you can
11 work. I might just hear something, or, you know, "Did you
12 know Lisa has dah, dah, dah," or here or there, you know, and
13 then I'll call and "What is the schedule like?" You know,
14 "What do they need?" It's to promote yourself.

15 Q. And you said Steadfast identifies the facilities you're
16 already able to work for. Is that what you said?

17 A. (Inaudible response.)

18 Q. We have to have a verbal response because you are on
19 video.

20 A. Yes.

21 Q. And when you get to those facilities that you're working
22 with, do you ever negotiate your pay rate with those
23 facilities?

24 A. No. I didn't, huh-uh.

25 Q. And have you ever communicated with a facility directly

C. Turner - Direct

1 to schedule a shift?

2 A. Yes.

3 Q. In those instance, would you have to let Steadfast know
4 that you scheduled the shift?

5 A. Yes, you do. Because if not, it would be a whole mix-up.

6 Q. If you didn't, what would happen? Has it ever happened
7 that you did not --

8 A. Sometimes you could be double-booked. Sometimes the
9 scheduler at Steadfast or somewhere else found somebody, but
10 you're talking to them, but they already had somebody in
11 place. So it's like you're overstepping, kind of, so to
12 speak. You kind of, you know -- (inaudible).

13 Q. And who compensates you for the services you provide at
14 the various facilities?

15 A. Lisa.

16 Q. And so to clarify, do your checks come from Steadfast or
17 your direct deposits come from Steadfast?

18 A. Yes, ma'am.

19 Q. You indicated that you work over 40 hours in a workweek.
20 Have you ever complained about not receiving time and a half
21 for hours worked over 40?

22 A. I have, but not, I guess, to them, just to the girls,
23 mostly the girls, really. But, you know -- (inaudible).

24 Q. And when your assignment at the facility ends, does
25 Steadfast provide you a new placement?

—C. Turner - Direct—

1 A. Absolutely. You are not out of work, unless you mess up
2 your name. You only have one name in this outfit. If you
3 mess up your name, that's on you. The work is there. If you
4 carry yourself right, work is there.

5 MS. JONES: I have no further questions for this
6 witness.

7 THE COURT: Any cross?

8 MS. RUST: No cross, Your Honor.

9 THE COURT: May this witness be permanently excused?

10 MS. JONES: Yes, she may.

11 THE COURT: Thank you, ma'am. You may be
12 permanently excused.

13 THE WITNESS: Thank you, Your Honor. You have a
14 good one.

15 (Witness excused.)

16 THE COURT: Okay. So where are we now, Counsel?

17 MS. LEWIS: As indicated, one of the six, Mr. White,
18 said that he would leave a shift and come. So I don't know
19 where he is, and I suspect the Court is not inclined to wait
20 for him today.

21 THE COURT: Do you have a cell phone number?

22 MS. LEWIS: We do have a cell phone number for him.

23 THE COURT: The Court will take a brief recess, and
24 you go call him on the cell phone and find out how far is he
25 from this courthouse.

—T. White - Direct—

1 MS. LEWIS: Thank you, Your Honor.

2 THE COURT: Where was he working, first of all?

3 MS. LEWIS: I don't know what facility he said he
4 was working at.

5 THE COURT: Well, find out how far away is he.

6 MS. LEWIS: Okay. Thank you.

7 THE COURT: Recess.

8 (Recess from 3:35 p.m. to 4:25 p.m.)

9 THE COURT: Call your next witness.

10 MS. LEWIS: Thank you, Your Honor. Tywann White.

11 (Witness sworn.)

12 MS. LEWIS: Thank you, Your Honor, for the Court's
13 patience today, for allowing this witness to get here this
14 afternoon.

15 TYWANN WHITE, called by the Plaintiff, having been
16 first duly sworn, was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MS. LEWIS:

19 Q. Mr. White, thank you for being committed to providing
20 your testimony.

21 If you could please state your name for the record
22 and spell your first and last name, please.

23 A. Tywann White, T-y-w-a-n-n, last name is W-h-i-t-e.

24 Q. Are you familiar with Steadfast Medical?

25 A. Yes, ma'am.

—T. White - Direct—

1 Q. And how are you familiar with the company?

2 A. I work with them.

3 Q. Approximately when did you start working at Steadfast?

4 A. Roughly, August 2017.

5 Q. About four or five years ago?

6 A. Yes, ma'am.

7 Q. And what type of nurse are you?

8 A. I'm a certified nursing assistant.

9 THE COURT: Raise your voice, please.

10 THE WITNESS: Certified nursing assistant.

11 THE COURT: That's it.

12 BY MS. LEWIS:

13 Q. And did you apply to work at the company?

14 A. Yes, ma'am.

15 Q. How did you apply?

16 A. I went in person and applied.

17 Q. Did you submit a job application?

18 A. Yes, ma'am.

19 Q. Did you submit anything else with that application?

20 A. Yes, ma'am.

21 Q. What did you have to provide?

22 A. My CNA certificate, licensing, a drug screen, and that's
23 all I can remember.

24 Q. Okay. So you submitted to a drug screen, you said?

25 A. Yes, ma'am.

—T. White - Direct—

1 Q. Did you pay for that?

2 A. No.

3 Q. And a background check? Did you take a background check?

4 A. I cannot answer that question.

5 Q. Do you remember if you took a background check?

6 A. I do not remember about the background check.

7 Q. Were you given the option to be classified as an
8 independent contractor or an employee?

9 A. No. It was written in the contract.

10 Q. Okay. So you signed a contract that specified that you
11 would be one of those two things?

12 A. Yes, ma'am.

13 Q. Which one?

14 A. The independent contractor. It's in the contract.

15 Q. Do you know if it's required to be an independent
16 contractor?

17 A. Not really.

18 Q. Okay. When you worked at Steadfast, did you own your own
19 healthcare business?

20 A. No, ma'am.

21 Q. Did you advertise your healthcare services in any way to
22 healthcare facilities separate and apart from Steadfast?

23 A. No, ma'am.

24 Q. Do you recall what the agreement says that you signed?

25 A. No, ma'am.

—T. White - Direct—

1 Q. Okay. Did you ever financially invest in Steadfast?

2 A. No, ma'am.

3 Q. Do you have an ownership interest in Steadfast?

4 A. No, ma'am.

5 Q. Are you an officer, manager, or director of Steadfast?

6 A. No, ma'am.

7 Q. Do you own a percentage of Steadfast?

8 A. No, ma'am.

9 Q. Were you paid on an hourly or salaried basis?

10 A. Hourly.

11 Q. And how much are you paid per hour?

12 A. 25.

13 Q. Have you always been paid that same rate?

14 A. No, ma'am.

15 Q. What were you previously paid?

16 A. Before COVID, it was 15 an hour.

17 Q. And did your rate of pay vary?

18 A. It depends upon different facilities.

19 Q. Were you able to negotiate a different pay?

20 A. No, ma'am.

21 Q. If you tried to negotiate a different pay, what would be
22 Lisa's response to that?

23 MS. RUST: Objection. Calls for speculation.

24 THE COURT: Sustained.

25 BY MS. LEWIS:

—T. White - Direct—

1 Q. Have you ever tried to negotiate a different rate with
2 Lisa?

3 A. I asked for 1 or 2 dollars extra, but majority of the
4 time, you cannot, you know, negotiate.

5 Q. So who set the rate of pay?

6 A. I would assume it's Lisa Pitts because it's her company.

7 Q. So does Steadfast make the ultimate decision to set your
8 rate of pay?

9 MS. RUST: Objection. Calls for speculation.

10 THE COURT: Sustained.

11 BY MS. LEWIS:

12 Q. Are you aware whether the facility sets your rate of pay?

13 A. No, ma'am.

14 Q. Who pays you for the services that you provide when
15 placed at facilities?

16 A. As my pay sheet states, it's Medical Staffing Solutions,
17 and the owner of the company is Lisa Pitts.

18 Q. Other than your hourly pay rate, did you receive any
19 profits besides the hourly rate that was set by Steadfast?

20 A. No, ma'am.

21 Q. Do you know whether the facilities pay Steadfast
22 overtime?

23 A. I'm aware that Medical Solutions -- what is it? -- MFA, I
24 used to work for them. I know that they pay Steadfast
25 overtime.

—T. White - Direct—

1 Q. If you didn't receive pay from Steadfast, would you be
2 able to meet your financial obligations?

3 A. Yes, ma'am.

4 Q. Okay. You would be -- if you didn't receive a paycheck
5 from Steadfast, you'd be able to meet your bills?

6 A. No, ma'am. I mean, I would have other means, but if I
7 didn't -- no. I'm sorry.

8 Q. What day of the week -- when are you paid?

9 A. I use Next Day Pay.

10 Q. What is Next Day Pay?

11 A. Next Day Pay is just like a bonus, kind of like incentive
12 to get paid faster. You submit your time sheet. They
13 process it one day with the facility, and then you'll have it
14 around 5:30 the next following day.

15 Q. You said they process it with the facility. So the
16 facility pays you for Next Day Pay?

17 A. The facility confirms if I showed up, the times and
18 things of that nature.

19 Q. Who do they confirm that with?

20 A. The schedulers.

21 Q. So the facility confirms the hours that you worked with
22 the schedulers?

23 A. Yes.

24 Q. And then who pays you?

25 A. Steadfast.

—T. White - Direct—

1 Q. And since you do Next Day Pay, is there a fee associated
2 with that?

3 A. 6 percent.

4 Q. Do you get a pay stub with Next Day Pay?

5 A. No, ma'am.

6 Q. Have you ever asked for a pay stub?

7 A. Yes, ma'am.

8 Q. And what was the response when you asked?

9 A. The response that I got was with Next Day Pay, you cannot
10 get a pay stub. You only can get a proof of income, but my
11 proof of income didn't match my bank statement, so I kind
12 of --

13 Q. So are you saying that the proof of income that Steadfast
14 provided you was not accurate based upon the compensation
15 Steadfast did a direct deposit to?

16 A. Yes, ma'am.

17 Q. Have you worked for other agencies?

18 A. Yes, ma'am.

19 Q. And which agencies?

20 A. Favorite Staffing, Crucial Staffing.

21 Q. I'm sorry. What were the names of those agencies?

22 A. Oh, it's Favorite Staffing, Crucial Staffing, Hamilton
23 Staffing, Essential Medical Staffing.

24 Q. And did you work as a CNA for those agencies as well?

25 A. Yes, ma'am.

—T. White - Direct—

1 Q. Are your job duties and responsibilities the same or
2 equivalent at Steadfast as with those other agencies?

3 A. Yes, ma'am.

4 Q. Do those agencies pay you time and a half?

5 MS. RUST: Objection to the line of questioning
6 whether another agency --

7 THE COURT: I think the Court said the practices of
8 other agencies are not really at issue in this case. What is
9 at issue here is whether Steadfast has properly refused to
10 pay overtime. So there's really no need for us to compare,
11 and I mean as to "us," as to the parties.

12 MS. LEWIS: Your Honor, with respect to this line of
13 questioning, it's in regard to -- well, first of all, it's
14 foundational with respect to the next questions that I intend
15 to ask with respect to his interactions with Steadfast.

16 Within their opening statement, defendants
17 represented that "We're different. We're not like any of
18 these other agencies. We are a matchmaking service. We're
19 not a registry."

20 THE COURT: Two things: To the extent they made
21 that representation in their opening statement, that's
22 irrelevant.

23 MS. LEWIS: I'm sorry?

24 THE COURT: That's irrelevant whether they're like
25 other agencies. They made that statement in their opening

—T. White - Direct—

1 statement. I'm back to what the Court has to find in this
2 case.

3 Now, you said it was foundational, so you can
4 continue into something else that the Court will find
5 eventually as relevant.

6 MS. LEWIS: Okay. So may he answer that last
7 question, or I just need to move on?

8 THE COURT: Well, to the extent you said they raised
9 it in opening statement, I said that is irrelevant, whether
10 they are like other agencies or not. The question is whether
11 they are in compliance with the law. So I don't think
12 there's any need to be going into that. So, no. I sustain
13 the objection. They raised it, but it's going nowhere.

14 All right. Next question.

15 BY MS. LEWIS:

16 Q. Does Steadfast communicate behavior expectations to you?

17 A. I really can't answer that because I don't recall
18 being --

19 Q. Let me ask it a different way.

20 Does Steadfast tell you how or give you guidance
21 with respect to how you should conduct yourself?

22 A. No. I just know how I should conduct myself in a
23 healthcare setting.

24 Q. I'm sorry. I didn't quite understand what you said.
25 What was your response?

—T. White - Direct—

1 A. I said -- I haven't really spoken with Steadfast. So I
2 just, you know -- they kind of put you on, and then you
3 really don't hear any more from them, so I just go in and do
4 as I would if I were a regular CNA.

5 So I would say, no, I have not heard anything about
6 behavioral expectations. There's really no supervision.

7 Q. Has Steadfast communicated to you their expectations
8 regarding professionalism?

9 A. No, I haven't spoken with Steadfast.

10 Q. You haven't spoken to Steadfast at all or ever?

11 A. In regards to that statement, no. In regard to
12 professionalism, no.

13 Q. You worked last night for Steadfast, correct?

14 A. Yes, ma'am.

15 Q. So within the past week, you've worked shifts for them?

16 A. Yes, ma'am.

17 Q. And you've communicated with the scheduler?

18 A. Yes, ma'am.

19 Q. And you've been given -- you've been compensated for that
20 work, correct?

21 A. No, ma'am. I mean, are you asking about compensated --

22 Q. Have you been paid by Steadfast for the work you've
23 performed?

24 A. Yes, ma'am.

25 Q. What rate were you paid for the shifts you did this week?

—T. White - Direct—

1 A. 25 flat.

2 Q. Who scheduled those shifts?

3 A. I scheduled them through the scheduler or through the DON
4 of the facility.

5 Q. Did you talk to Lisa this week?

6 A. No, ma'am.

7 Q. Last week?

8 A. No, ma'am.

9 Q. Last night?

10 A. No, ma'am.

11 THE COURT: Have you talked to her about this case
12 at any point?

13 THE WITNESS: No, ma'am -- no, sir.

14 THE COURT: Thank you.

15 BY MS. LEWIS:

16 Q. You indicated a moment ago that -- so who determined the
17 hours that you worked?

18 A. There's not really, like, a set schedule. You kind of
19 just get where you can fit in. So if you can find a shift,
20 you can work that shift. There's no such schedule.

21 Q. Are you required to complete time sheets?

22 A. Yes, ma'am.

23 Q. And how often are you required to submit time sheets?

24 A. Every shift, after every shift that you work.

25 Q. So I understand that you -- you said you sort of get in

—T. White - Direct—

1 where you can, but you need to contact the schedulers to do
2 so; is that right?

3 A. Yes, ma'am. They have to confirm your shifts.

4 Q. And if you have to cancel a shift, do you have to provide
5 notice?

6 A. You have to provide two hours' notice, or you could be
7 penalized by the facility.

8 Q. And who do you provide that notice to?

9 A. It's supposed to be going through the scheduler through
10 Steadfast, and then they communicate it to the facility.

11 Q. Have you received any back wages from Steadfast for hours
12 you've worked over 40?

13 A. No, ma'am.

14 Q. Have you received any other compensation from Steadfast?

15 A. No, ma'am.

16 Q. Have you ever complained about not receiving overtime?

17 A. Yes, ma'am.

18 Q. And who did you complain to?

19 A. To payroll. Her name is Christine. And they have
20 Next Day Pay payroll too.

21 Q. Do you ever talk to Lisa?

22 A. No, ma'am.

23 Q. What did they say to you when you complained about
24 overtime?

25 A. They stated, as an independent contractor, you are not

1 eligible for overtime, and that was basically it.

2 MS. LEWIS: No further questions for this witness.

3 THE COURT: Cross.

4 MS. RUST: One moment, Your Honor.

5 (Pause in the proceedings.)

6 MS. RUST: No cross, Your Honor.

7 THE COURT: May the witness be permanently excused?

8 MS. LEWIS: Yes, Your Honor.

9 THE COURT: You may step down, sir.

10 (Witness excused.)

11 THE COURT: It's the Court's understanding that you
12 have no further witnesses for the day?

13 MS. LEWIS: That is correct, Your Honor.

14 THE COURT: Just one thing, just housekeeping notes.
15 You can have a seat there.

16 A couple breaks ago, I ordered you to call the
17 witness. When I ordered you to call the witness, that's what
18 the Court meant, for you to call the witness, not to
19 reevaluate whether the witness should be called. And then,
20 eventually, the courtroom deputy called the witness. But
21 when the Court says to do something, it intends just that.

22 Second thing. I think you've called 13 witnesses
23 now. At least 12 of them have been, in my view, testifying
24 about the same thing regarding the procedures and practices
25 of Steadfast.

1 Now, that is getting very deep into the cumulative
2 side. If you are trying to explain to the Court exactly the
3 way the business works, the Court has heard it. So with
4 respect to going forward, I don't know how many more
5 witnesses you have, but unless there's something different
6 about one of these records, the Court doesn't want to hear
7 any more testimony about the same thing. That's cumulative.

8 And so I'm hoping that you have on hold some
9 witnesses that can shift to something else in this case. I
10 think that's a better use of the Court's time in here.

11 Any questions?

12 MS. LEWIS: Excuse me.

13 (Pause in the proceedings.)

14 MS. LEWIS: Your Honor, may I have a five-minute
15 sidebar just to review the list so I can properly respond?

16 THE COURT: Sidebar with the Court?

17 MS. LEWIS: Sidebar with the solicitor.

18 THE COURT: Sidebars are usually with the Court, but
19 if you want to talk for just a second, go right on.

20 MS. LEWIS: Thank you.

21 (Pause in the proceedings.)

22 MS. LEWIS: Thank you, Your Honor.

23 THE COURT: Okay.

24 MS. LEWIS: I apologize.

25 THE COURT: Yes, ma'am.

1 MS. LEWIS: Your Honor, I would like to proffer that
2 we have --

3 THE COURT: Wait a second. Let me get this
4 technology to stop goofing around up here.

5 Okay. Go on.

6 MS. LEWIS: Okay. Your Honor, the Secretary has
7 approximately eight additional witnesses that will testify
8 consistent with the witnesses, the employee witnesses that
9 the Court has already heard from, but we do want to make sure
10 that with respect to all of the evidence, that the Court has
11 enough information into the record with respect to, as you
12 indicated, the policy and practices.

13 So based upon the Court's information, we just
14 wanted to make sure that it was clear, with respect to the
15 represented testimony, that we've established a pattern.

16 THE COURT: Here's what I'm representing to you:
17 You can go back, just as the Court can, and review
18 the testimony --

19 You can have a seat, sir.

20 -- and review the testimony of each one of those
21 witnesses in terms of what they got out and what they
22 presented to the Court.

23 Now, if you have another witness who has something
24 to add regarding past practices of the defendant in this
25 case, then you can call that witness. In other words, I

1 don't want to keep calling witnesses that say the same thing.
2 If there's something additional that you missed, another
3 witness can address it, then the Court will listen at it.
4 That's the only thing the Court is saying.

5 MS. LEWIS: With that, Your Honor, with respect to
6 the eight, and certainly we would reserve some for rebuttal.
7 So...

8 THE COURT: All right. That's fine. That's fine.

9 All right, then. What we're going to do is come
10 back in here tomorrow morning at 10:00 and get started.

11 Now -- yes, ma'am?

12 MS. RUST: Well, I just want to clarify with respect
13 to the global trial schedule. If they'll -- if they don't
14 anticipate calling eight witnesses they had scheduled, are
15 they still anticipating going a full five days as originally
16 estimated, just so that we can make sure that our witnesses
17 are ready to go.

18 Our witnesses we instructed that our case would be
19 going on next week based on the representation of their
20 schedule. So we certainly want to have ours ready to go once
21 they are done. So if they have a different estimation of
22 their case in chief...

23 THE COURT: Well, I can say this much, based on the
24 Court's practice, you be prepared to bring some witnesses in
25 case their case ends early.

1 MS. RUST: Of course.

2 THE COURT: You have somebody.

3 Now, I don't know how many more witnesses they do
4 have or whether those witnesses will take up -- tomorrow is,
5 what, Thursday? And potentially Friday, two days. I don't
6 know.

7 Do you have any idea?

8 MS. LEWIS: Your Honor, we anticipate with the
9 remaining witnesses that we'll go till Friday.

10 THE COURT: They will take till Friday.

11 MS. LEWIS: They will take till Friday.

12 THE COURT: With that being the case and with that
13 representation, we will anticipate that if she starts on
14 Friday and she quits at 12:00, we will still start on
15 Monday -- Tuesday. Okay. On Tuesday.

16 MS. RUST: Thank you for that clarification.

17 THE COURT: We'll recess court until tomorrow
18 morning at 10:00.

19 (Proceedings adjourned at 4:47 p.m.)
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CERTIFICATION

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

_____/s/____

Carol L. Naughton

October 4, 2021